Regulating Private School Fees

What is the issue?

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There is a lack of jurisprudential clarity on the fees charged by private schools.

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What is the challenge?

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- Regulating school fees is one of the most significant legal and political challenge policymakers in India face.
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- The issue of fee regulation finds itself at the intersection of two important ideas.
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- One, the constitutionally protected freedoms enjoyed by private schools.
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- Two, the need for making quality education affordable and accessible to all.
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What are the concerns?

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- **Cost** - Every academic year, parents witness the burden of unjust hikes in tuition fees for schools.
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- Adding to their burden is the additional costs such as fees for transport, extra-curricular activities and sports.
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- The managements of such schools claim that these hikes are reasonable and justified.

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- The costs of maintaining a fully functional private school with quality teaching and world-class infrastructure are quite steep.
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- In 2010, the Comptroller and Auditor General slammed 25 well-known private schools in Delhi for arbitrary fee hikes.
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- According to the report, money was being collected from parents under false heads.
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- Also, teachers were being underpaid, and accounts were misrepresented.
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- **Autonomy and welfare** - Balancing the autonomy of private schools and their public welfare function is another contentious issue.
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- The Supreme Court held that regulatory measures imposed on unaided private educational institutions must, in general, ensure -
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i. maintenance of proper academic standards
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ii. school atmosphere and infrastructure
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iii. prevention of mal-administration by the school management
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- A Constitution Bench of the Supreme Court held that these institutions have the autonomy to generate “surplus”.
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- Private schools are thus entitled to a reasonable surplus for development of education and expansion of the institution.
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- But the autonomy of such institutions has to be balanced with the measures taken to prevent commercialisation of education.
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- However, there is not much clarity on what the terms “surplus”, “reasonable surplus” or “commercialisation of education” entail.
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What are the States' models for fee regulation?

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- Many state governments have either enacted fee regulation laws or are in the process of framing them.
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- These are to prevent private schools from charging unreasonably high fees and to prevent misuse of funds.
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- E.g. Tamil Nadu follows the fee fixation model.
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- Under this, a government committee is empowered to verify and approve fee structures proposed by private schools.
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- Karnataka has a formula that caps fees for schools by way of framing rules under its school education legislation.
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- Maharashtra has a weakly enforced legislation to regulate fees and has multiple government bodies to approve school fees.
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- Maharashtra government recently decided to cap proposed fee hikes at 15%, which was widely criticised by schools.
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- A recent order of the Gujarat High Court upheld the validity of the Gujarat Self Financed Schools (Regulation of Fees) Act, 2017.
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- This is now being reconsidered by the Supreme Court which has directed the government to not take any coercive steps against schools in the interim period.
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What are the drawbacks?

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- **Clarity** - The new wave of fee regulation laws in States has the potential to address the problems.
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- However, there is still a lack of jurisprudential clarity on what private schools can or cannot do.
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- How much “surplus” they can make, or what “commercialisation” actually means are poorly defined.
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- **Deeper Problems** - Existing legislative efforts seem to have made an incomplete assessment.
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- Evidently, the deeper problems are with financial management and accounting practices by private schools.
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- As of now, the states' models are affected by the challenges of weak implementation.
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What is the way forward?

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- The solution to make these laws more effective is to address the financial mismanagement and misreporting.
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- In Modern School v. Union of India (2004), the Supreme Court recommended accounting standards for private schools.
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- Further, measures such as the following could be considered -
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i. regular government supervised audits
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ii. generating capacity in State-level Departments of Education
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iii. regular inspections
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iv. stricter sanctions for fraudulent reporting
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Source: The Hindu

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