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FDI in Higher Education in India: *Regulatory Bottlenecks and Options*

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The 'India Vision 2020' envisages the transformation of India into a knowledge superpower. To achieve this vision, the higher education sector has to play a key role. Education and knowledge resources have to be accessible to a large number of people through various means in a seamless way so that the gap between demand and supply, which is especially stark in regard to the availability of quality institutions, is alleviated and some standardisation of quality takes place across all institutions. Promotion of competition among providers through various means, including those which can stimulate private investment, both foreign and domestic; and alleviation of resource constraints plaguing state universities constitute important elements of the solution. This paper examines the problem of stimulating adequate but quality enhancing foreign investment in higher education in the context of the overall need for greater access coupled with higher quality.

Introduction

Despite recent increase in enrolment, primarily through private means, Indian higher education remains in a sorry state. The current enrolment is only 12 percent as compared to 60.1 and 82.4 percent respectively in UK and US. Even Southeast Asian countries show much higher enrolment (31 percent in Philippines, 27 percent in Malaysia, 19 percent in Thailand and 13 percent in China). Not only enrolment is low, but the quality of higher education is also poor. One of the important factors responsible for this situation has been the paucity of investment.

According to the United Nations Educational, Scientific and Cultural Organisation (UNESCO), public spending on higher education in India is only US$400 per student which compares very unfavourably with the figure of US$9629 in the US. It may be argued that it is not relevant to compare the condition of education in India with that of the US which has a head start of over a century in the field of education. However, even other developing countries such as Brazil, China and Russia have much higher public expenditures per student in excess of US$1000.

Given the meagre per student public expenditure, it is important to attract private investment into this sector. All possible means for modernisation and expansion of the higher education system and increasing its orientation towards generation of vocational skills need to be tapped and promoted. While the domestic private sector has performed commendably in expanding higher education, especially technical or vocational education, in the last decade or so, it clearly cannot bring about the needed expansion, modernisation and institutional change on its own.

Along with increase in coverage, improvement in the quality of education is equally important. At present, there is immense variation across institutions with very few institutions of quality. Thus, there is excess demand for quality education and lack of competition among providers to satisfy this demand. Such excess demand is reflected by the rising number of students going abroad and huge associated expenditure on higher education (see Box 1). Resource constraints faced by state universities in India contribute to this supply deficit. As a result, the role of private sector has been increasing over the years.

Box 1: Outflow of Foreign Exchange for Higher Education Abroad

Nearly 4 lakh Indian students go abroad for higher studies spending approximately US$12bn every year. This leads not only to loss of foreign exchange but also 'brain drain' as these students rarely come back to India after completing their education.

Over 90 percent of students who write that the Indian Institute of Technology (IIT) and the Indian Institute of Management (IIM) entrance examinations are rejected by the mentioned institutes due to capacity constraints, of which the top 40 percent pay to get admission abroad. The primary reason for a large number of students seeking professional education abroad is lack of capacity in Indian institutions.

Source: Federation of Indian Chambers of Commerce & Industry

Given this state of higher education in India, could liberalisation be the solution? The major concern regarding such liberalisation is that it can lead to commercialisation of higher education which may affect a large section of society adversely. Moreover, it cannot be guaranteed that only quality foreign universities will come to India. In the absence of proper regulation of entry and subsequently, operations, the combination of the profit motive and opportunities for making easy profits on the basis of information asymmetries between the receivers and providers of higher education might induce entry by poor quality foreign universities.

An enabling policy environment for attracting foreign investment into higher education while regulating foreign entry optimally is needed. The general consensus is that Indian regulation has been characterised by too many unnecessary checks on foreign direct investment (FDI) in education.

This Briefing Paper would try to explore the scope for FDI in higher education in India, evaluate the regulation of higher education in regard to its ramifications for FDI and make recommendations for change.

Need for Foreign Investment

India's potential as a knowledge super power rests on three advantages: its large population; the large proportion of youth in the population; and last but not the least, the widespread knowledge/awareness of the English language backed by a generally satisfactory urban school education system.

However, these conditions are at best necessary and not sufficient for transforming India into a knowledge super power. Most of the prominent academicians of Indian origin have mastered their trade in famous universities in the US and UK. While our urban school education system seems to prepare students well for trials abroad, it is the inadequacy of the higher education system as a creator of knowledge and a generator of employable skills that leads to their exodus to other countries.

Inculcating skill development in the education system is critical. At present, only seven percent of young Indians (15-22 years) get any vocational training at all. This compares poorly with 96 percent in South Korea, 80 in Japan, 75 in Germany, 68 in UK, and 28 and 22 percent in developing Mexico and Botswana.

Thus, two major recommendations for the Indian higher education system emerge – an increase in facilities, both in terms of physical magnitude and geographical spread, for inculcation of vocational skills backed by an increase in the general quality of higher education, both vocational and non-vocational. These objectives require better allocation and utilisation of resources favouring allocation to vocational sources as well as increase in per capita spending on higher education through higher investment.

Given the vast deficit in basic capabilities and needed investment in primary education to overcome it, it would be wishful thinking to expect a huge increase in higher education expenditure by the government in the near future. However, given the importance of higher education for economic betterment, government policy can and should be accommodating towards private investment in education, including that from foreign sources.

The presence of top international universities in India would not only correct demand-supply imbalances in higher education and improve its quality directly, the resulting competition with local universities would also induce these to become internationally competitive through quality improvements brought about by changes in curricula and other responses to an evolving market. Further, FDI in education would generate employment and also check the outflow of money which Indian students spend in foreign universities abroad.

Further, India can emerge as a provider of higher education to the developing world and even developed countries in niche areas by taking advantage of the economies of scale generated by its large market size.

Status of Regulation of Foreign Providers of Higher Education

The 1990's saw the emergence of foreign universities in India in collaboration with domestic private educational institutions. The foreign universities used collaborative methods such as twinning arrangements and franchise to deliver educational programmes. These arrangements generated high profits as very low or no investments were required but in turn discouraged entry by top quality foreign entrants.

In general, the regulatory policies of the government have created significant barriers to entry and operations of potential foreign universities. These have involved the imposition of unduly high costs which, in turn, have led to an adverse selection problem with only universities willing to sacrifice quality at the altar of profits entering. This poor average quality of education, while an outcome of the high handed regulatory policies of the government, have served to confirm their suspicions of foreign providers and induced further rounds of counterproductive raising of entry barriers[1].

To illustrate the barriers generated by the government policy, since 2000, the government has allowed FDI in higher education through the automatic route without any sectoral cap but not the granting of degrees by foreign universities on India soil. At present, there is no off-shore campus of any foreign university in India except a few franchise operations. The remaining are programmatic collaborations or twinning arrangements. The number of students enrolled in these programmes is insignificant compared to the overall enrolment in higher education in India.

Given the current status of collaboration between Indian and foreign universities, foreign universities are outside the jurisdiction of the national regulatory system in India. However, efforts have been made recently to regulate and streamline their operations.

In 2003, the All India Council for Technical Education (AICTE) issued regulations for entry and operation of foreign universities/institutions imparting technical education in India[2]. The regulations were aimed at systematising the operations of foreign universities/ institutions already providing education and training leading to award of a degree and diploma in technical education, either on their own or in collaboration with Indian educational institutions under various delivery modes (conventional/formal and distance). This was also intended to safeguard the interest of the student community in India and ensure uniform maintenance of norms and standards of the AICTE as also to prevent entry of non-accredited university/institutions.

In 2005, the government prepared a bill (The Foreign Educational Institutions, Regulation of Entry and Operation, Maintenance of Quality and Prevention of Commercialisation Bill 2005) which, if passed, would not only allow foreign universities to set up campuses in India and offer degrees but also simultaneously facilitate the regulation of their operations. The purpose of the bill was to regulate entry, operations and quality of education by foreign universities while preventing its commercialisation. The Bill provides for granting of the status of *Deemed University* to all foreign providers of higher education which would therefore come under the ambit of University Grants Commission (UGC) regulations. A foreign university desirous of establishing a campus in India would be required to invest at least 51 percent of the total capital expenditure needed for such an establishment. The Bill has been approved by the Cabinet and awaits Parliament approval.

Regulatory Concern

The current regulatory policy discourages the entry of excellence. A policy of non-interference in curricula, fees and admission criteria with the government stepping in only as a financier for economically backward students and a facilitator of accreditation is best for the generation of badly needed human capital. Instead India's open door policy towards foreign universities remains only notional; foreign entry remains blocked by stifling regulations. The government has allowed FDI through the automatic route subject to the condition that the concerned foreign entity is partnered by an Indian institution investing in excess of 50 percent. The Foreign Universities Entry and Operations Bill, currently under consideration, might do away with this requirement. But even the draft of this bill imposes certain restrictions. The main concerns with the Bill are as follows:

- The bill envisages regulation of fees to tackle commercialisation of education which will definitely deter entry of quality foreign universities, reared in an environment where commercial success and good product/service quality go hand in hand.
- It provides for government monitoring/influence of/on admissions criteria which again might deter entry by high quality foreign universities which believe in using their own set of criteria.

Enabling Regulation

A clear cut government regulatory policy which balances the need for freedom of foreign education providers with national interest is necessary. In other words, the accent should be on optimal regulation and the avoidance of over or under regulation. At the same time, greater operational and financial autonomy should be granted to private domestic universities so that foreign, private domestic and state universities can compete in a level playing field.

A conscious effort on the part of the government to desist from excessive regulation can be combined with non regulatory evaluation and accreditation processes. Such evaluation, even after regulating entry, is carried out by countries such as China, Malaysia and Singapore (see Box 2). This would remove information asymmetries between the foreign education providers and the recipients of higher education and induce well informed consumption decisions which, in turn, would stimulate quality enhancing competition through investment in academic infrastructure such as laboratories and research facilities.

Box 2: Regulating Foreign Universities in China

The entry of foreign institutions is by invitation only and the conditions under which the foreign educational provider can come to China include:

1) Foreign institutions must partner with Chinese institutions.
2) Partnerships must not seek profit as their objective.
3) No less than half the members of the governing body of the institution must be Chinese citizens.
4) The post of president or the equivalent must be held by a Chinese citizen residing in China.
5) The basic language of instruction should be Chinese
6) Tuition fees may not be raised without approval.

Source: Konkan Sharma, "FDI in Higher Education: Aspirations and Reality" Mainstream, Vol. XLV No 25

The regulation of fee charged by foreign universities is advocated on the grounds of affordability. However, competition itself can ensure that fees remain affordable while promoting quality of higher education. Moreover, affordability can be enhanced through direct transfers of purchasing power in the form of bank loans and scholarships without affecting the play of competition enhancing market forces.

The objective of the government should be to facilitate competition among private domestic providers and foreign education providers. Such competition would rule out exploitation by providers through control over certain sections of the market as well as discourage insensitivity by foreign universities towards local culture and values.

Conclusion

Regulation of higher education in India is targeted towards achieving two conflicting objectives – high quality in provision of such education and suppression of the profit motive. The correct approach, however, lies in facilitating the attainment of high quality through interaction of the profit motives of various providers, private domestic as well as foreign. At the same time, such motives should be suitably bridled by setting and enforcing rules of the game, periodic evaluations, and accreditation to remove information asymmetries between providers and recipients of higher education. This will ensure that profit making is not exploitative but channelled to raise the quality of education.

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