DISCUSSION PAPER

CUTS Centre for Competition, Investment & Economic Regulation
CUTS C-CIER

No. 1/2008

Regulation of Higher Education in India

While the coverage of higher educational facilities has registered an impressive increase since independence much more clearly needs to be done. The non-vocational sector comprising of universities and deemed universities clearly suffers from lack of competition because of institutionalised barriers to entry created by the government itself, resulting in both inadequate quality and quantity of higher education. Some deregulation of entry in this sector coupled with promotion of accountability of institutions to students is desirable. In the case of professional colleges, entry has been effectively deregulated which is not ideal in the case of courses such as those on medicine. Such deregulation might have adverse effects on human health and life. Apart from these problems relating to quality and quantity it is also necessary to consider trade-offs between the quality of education and equity. Cross-subsidisation has been proposed to reconcile these two objectives; however, the requirements for cross-subsidy might be so large in the case of quality education that the corresponding fees might be unaffordable for large sections of the population. Student loans at subsidised interest rates might be a viable alternative.

1. Introduction

Higher education institutions constitute the assembly lines for generation of human capital and nurseries to nurture the researchers. Thus, these institutions are intimately linked to the scale and scope of economic activity and development in a country. No country can afford to prosper in the long run if it neglects the development of facilities for higher education, which is characterised by significant positive externalities. For example, 10 researchers working in isolation will never be able to generate the same level or quality of research as they will do while working in a team.

Given that higher education has these network externalities, its contribution to the national economy is much greater than the sum of private benefits generated. On the other hand, higher education is also characterised by asymmetries in information given that consumers of education are students whose decision to enroll in a course cannot possibly be made with perfect or near perfect knowledge of the quality of the product. The two characteristics of higher education – large and positive externalities and asymmetries of information – make higher education an ideal candidate for regulation.

This paper starts with an introduction followed by Section 2 that presents a review of the progress made in higher education in India. Section 3 examines the status of regulation in higher education in India while Section 4 makes recommendations for changes in the regulation to make the higher educational institutions more productive. Section 5 is the conclusion.

2. The State of Higher Education in India.

Positive Trends: There is no doubt that considerable progress has been made in the provision of higher education in India since 1950-51 when it had only 27 universities or deemed universities. As things stand today this number has risen to 400, and vast improvements have also been made in generating gender equality in access to higher education. At the time of independence hardly 10 percent of the students enrolled in higher educational institutions were women. By the turn of the century, this figure had jumped to 40 percent.

Insufficient Enrollment: Despite all these changes the National Knowledge Commission (NKC, 2006), in its evaluation of the state of higher education in India, concludes that there is a "quiet crisis in higher education that runs deep. Pockets of excellence remain but the general impression is one of mediocrity". Moreover, the proportion of population in the 18-24 age group which enters higher educational institutions is just about 7 percent, which is around one half of the Asian average. The NKC estimates that India needs around 1500 universities to facilitate a gross enrollment ratio of at least 15 percent in higher education to match the Asian average. The main reasons for the insufficient number of universities (providing non-vocational education) are the significant entry barriers imposed by the government, which are discussed below.

Sub-standard Quality: Apart from the quantitative concerns the NKC clearly delineates certain valid concerns about the quality of education. The sub-

standard quality is signalled by global rankings of universities with no Indian university featuring in the top 50. The mediocre quality of higher education institutes can be attributed to a number of factors. First, curricula of universities are not revised frequently and are often remained unchanged for decades. This is unpardonable in a dynamic global environment where the relative importance of issues and problems is constantly changing and new subjects are constantly coming to the fore.

Most of the Indian universities are still stuck in a system of annual examinations where memory rather than understanding reaps rewards. A credit based semester system is still the exception rather than the rule. Second, there is a tendency to develop universities as teaching outlets rather than centres of excellence in high quality research. The result is that much of the human capital in university professors is under utilised and often depreciates because of lack of academic involvement and stimulation and poor exposure to new developments in their subjects. Moreover, potential synergies between teaching and research remain unutilised.

The main regulatory reason for sub-standard quality of higher education is due to insufficient competition caused by barriers to entry. Moreover, accountability for educational outcomes is unsatisfactory, partly because the legal interpretation of "higher education" is not clearly defined (whether it is a service where the producer is responsible to the customer for quality).

In contrast to non-vocational universities, colleges for professional education, e.g. engineering, medicine, business management etc., have mushroomed all over the country In fact, in the post-liberalisation period (1990-91 to 2004-05), their number has seen almost a fourfold increase from 886 to 3201 (Ministry of Human Resource Development, 2004-05). However, it can be noted that all professional courses cannot be treated the same way as far as encouragement of competition is concerned. Courses such as management generate candidates for the job market.

However, it is up to individual firms to hire them suitably, if at all. In this case, the market serves as a filtering device. In the case of doctors many of them might set up private practice on the basis of degrees awarded by medical colleges whose customers would take their qualifications as representative of their skill and ability to practise medicine. If such skills are absent the consequences for both human health and life might be dangerous. Thus, there is a great need to test and monitor the infrastructure of medical colleges and also make sure that students graduating from such colleges have the necessary knowledge and skills. Moreover, a scrutiny of the curriculum and examination system is called for. Free entry in this case is not a desirable quality but constant monitoring of quality is crucial. A similar case can be made for engineering colleges though not to the same extent.

Absence of Top Quality Faculty: There is no effort to attract top quality faculty with good housing and offices facilities. The absence of rewards against performance makes education a very unrewarding profession and academically bright young people are attracted to the more remunerative performance oriented private sector. Parochialism runs deep among the faculty members of the universities, and in any given university most of the faculty members are drawn from the region in which the university is located. Parochialism prevents the inflow of faculty from other regions with the result that no cross-pollination of university faculties takes place.

The UGC is responsible for academic stagnation as it has laid down standard norms for salaries which are not based on merit but on seniority based promotions, which kills any initiative on the part of professors to be good at their job, teaching or research wise.

Insufficient Funds, Poor Utilisation and Crumbling Infrastructure: Human capital, however, is not only the subject of concern. Infrastructure in many universities is not only inadequate but also on the verge of collapse. The allocation of Government funds for higher education has usually fluctuated between 0.35 and 0.45 percent of the GDP instead of the recommended 2 percent. Trends in spending also show a very long lean period between 1993-94 and 1997-98 when higher education expenditure as a proportion of GDP remained consistently below 0.40 percent.

Unfortunately, this era of depressed educational spending coincided with extreme dynamism in the international educational milieu. Consequently, the infrastructure in universities has undergone large scale obsolescence without adequate replacement – a factor partially responsible for poor quality of education and low levels of satisfaction among students. The lead surrendered to the rest of the world during this period has not been recovered in later periods though the proportion of GDP spent on higher education has recovered to 0.6 percent.

The serious resource crunch in universities implies that there is little financial flexibility, given that certain expenditures are unavoidable. According to NKC (2006), 75 percent of maintenance expenditure is on salaries and pensions on an average. Much of what is left is absorbed by infrastructure costs such as rents, electricity, telephones and examinations. Thus, there is very little left for development of infrastructure from these funds with the consequence that laboratories, libraries and buildings are dilapidated and deteriorating rapidly. Budgeted plan expenditure is less than 5 percent of non-maintenance expenditure and totally inadequate for developmental purposes.

Many facilities which are taken for granted in universities in the developed world such as broadband facilities for students and teachers and computerisation of admission processes and administration of exams are lacking.

Box 1: Political Interference and Woeful Standard of Affiliated Colleges: Uttar Pradesh's Higher Education in the Doldrums

Lucknow (August 2, 2007): Annoyed by the "political interference" in Uttar Pradesh universities, the University Grants Commission (UGC) is highly critical of the academic standards and the quality of higher education in the state. UGC Chairman Prof. Sukhdev Thorat expressed his displeasure about the functioning of the universities in the state at a closed-door conference of vice chancellors on Wednesday. According to sources, Thorat was of the view that "no university in Uttar Pradesh appears to have the potential to be developed into a centre of excellence".

The UGC chairman, sources said, also expressed grave concern over what he termed as "political interference" in the working of universities in the state. He stressed upon the need for politicians to realise that they must respect the autonomy of all institutions of higher learning "in the larger interest of academic excellence". While Thorat primarily blamed the state government for "lack of adequate support", he was equally critical of vice chancellors and academics for not taking any initiative in improving the state of affairs on the campuses.

"The fact that nearly 35 percent of UP's government-run and state-funded colleges had not been accorded permanent affiliation reflects the pathetic state of academics in these colleges," Thorat told the gathering.

"There are as many as 242 such colleges affiliated to 13 universities in the state but 70 of these could not be given permanent affiliation because of sheer lack of the prescribed facilities," he lamented. "Likewise, only 23 of the 311 departments under these universities had been found fit for grants under UGC's special assistance programme."

What annoyed him even more was the failure of most universities in the state to utilise UGC grants, said the sources.

"I fail to understand why universities were also not utilising funds given under various schemes for backward classes, girls and minorities," Thorat wondered.

Advocating the need for large-scale reforms in higher education, the UGC chief proposed to introduce a system of evaluation of teachers as a part of the 11th Five Year Plan. He was also keen to make accreditation of all institutions by the National Accreditation and Assessment Council mandatory.

Source: http://www.indiaedunews.net/ (Excerpt from news release)

3. Governance and Regulation

Political Interventions: Much of the state of higher education in our country can be attributed to the system of governance and regulation. The system of command and control implicit in the functioning of universities is unworkable and does not promote accountability. These institutions are constantly subjected to governmental pressures and intrusion of political processes (see Box 1). Decisions are often made on the basis of non-academic considerations. This intervention starts right at the top with the appointment of the vice chancellor. University Courts are oversized with 500 members, with the result that they are decorative with no functional use. The same is true of academic councils- large size prevents dynamism in decision making.

The other cause of poor governance is the system of affiliating colleges to the university which yields revenue for the university through fees. There are a total of about 17,700 undergraduate colleges, out of which a mere 1.1 percent are autonomous. The rest are affiliated to universities. Many universities have more than 100 affiliated colleges and there are some with more than 400 affiliated colleges each. With so many affiliated colleges the universities become bulky structures. The need for joint examinations of affiliated colleges prompts standardisation and dilution of curricula and examinations with inadequate emphasis on flexibility in response to changing and varying needs of students. There is also no opportunity therefore to nurture centres of excellence within the university systems.

The large size of universities is due to poor regulation. A university can only be set up through Parliamentary legislation. This requirement is a formidable obstacle and makes authorisation of entry a cumbersome process. Thus, universities keep expanding by taking on new colleges when the need is for new universities which administer a close cluster of colleges. Even after entry extensive rules regulate the institution from fees to curriculum and prevent the diversification of courses and human capital in response to the highly differentiated demand for skills and manpower. The result is thousands of graduates with degrees which cannot get them a job in the labour market.

There are other aspects of regulation which prevent competition. For example, the UGC Act section 3.1.2(a) suggests that an additional institution will be permitted only if the Commission is satisfied that the existing institutions in the state are not adequate to serve the needs of the state. If this suggestion is followed rigidly no quality competition would take place between institutions. Thus, India needs a regulatory system which promotes the growth of competition as a means to enhance institutional quality. An independent regulator has to be the cornerstone of such a system.

A regulator in higher education usually has five functions: (1) license to grant degrees; (2) accreditation or quality benchmarking; (3) disbursement of public funds; (4) regulation of access through stipulation of fees or affirmative action; and (5) provision of licenses to practice profession. Apart from the first function the UGC is responsible for all the others. However, it has not fulfilled its function in many cases and the courts have had to step in to fill the vacuum with contradictory judgements being made on several issues (see Box 2).

The method of regulation of private institutions by courts has been inconsistent and varied between grudging acceptance and outright hostility. It is also quite clear that it is necessary to equip a regulatory body with a clear well defined set of regulatory laws to deal

Box 2: The Fiasco of Fee Regulation

One area of concern is the ability of private educational bodies to charge high fees. In 1993 in *Unni Krishnan vs. Andhra Pradesh* Case (see Mehta and Kapur, 2004 for review of such cases) the court reviewed the state's right to interfere in the admission policy and the fee structure of private professional institutions. In this context, the court ruled that education was a fundamental right which could not be used for profit seeking. The very fact that education is a right and not a service (the definition of a service suggests that it is rendered as a part of a commercial transaction) has been used time and again to escape punishment by consumer courts as by implication it does not fall under the purview of the Consumer Protection Act. However, even in the interpretation of education as a service, our courts have been divided. For example, the Kerala High Court did entertain a complaint about the quality of education by a student who had paid capitation fees. In 2002, the Supreme Court reversed the judgement in the Unni krishnan case saying that a private unaided institution could also make a reasonable surplus to meet the cost of expansion and augmentation of facilities.

with private institutions and ability to fix fees and determine curricula. Otherwise, the uncertainty of regulatory outcomes would kill quality private enterprise in education.

The treatment of foreign direct investment (FDI) in education has been worse. Though the government has had to allow FDI in education because of its commitment to General Agreement on Trade in Services (GATS**)** this has only been a token commitment. The government's insistence of setting fees to be charged by educational institutions and deciding about their curricula has deterred many quality educational institutions from setting up their branches in India.

This approach does not pay great attention to the dynamic function of education in generating human capital. Instead of removing the imperfections in the credit market which results in inequality in the power to pay for education, the government takes these inequalities as given and strives to hold down fees to a level where such inequalities are not constraining. The second objective is achieved to an extent but the quality of education suffers.

4. Recommendations and Discussion

The NKC has come up with an interesting set of recommendations. The first recommendation is to simplify entry as there is a multiplicity of regulators with confusing overlapping mandates (UGC, Courts, State and Central Governments). It describes the whole system as being overregulated and under-governed and recommends the need to establish an Independent Regulatory Authority for Higher Education (IRAHE). It recommends that IRAHE must be at arm's length from the government and truly independent of all the stakeholders. The following are also recommended for the IRAHE:

- It would be the only authority deciding on entry as well as having the authority to accord degree and granting power to institutions.
- It would monitor standards, licence accreditation agencies and settle disputes.
- It would apply the same norms to private and public institutions, domestic and international institutions.
- The role of the UGC would be confined to the disbursement of funds.
- Universities would be free to decide their level of fees but as a rule 20 percent of the expenditure would have to be met through fees. However, needy students would have to be provided with a fee waiver plus a scholarship to meet their cost.
- If universities raise more than 20 percent of their expenditure through fees they should not be penalised by the UGC in terms of deduction of grants in aid.

The recommendation about setting up an umbrella regulator in the form of IRAHE which is independent is well taken. However, asking universities to meet 20 percent of their expenditure through fees while at the same time enforcing the provision of scholarships and fee waivers to needy students is impractical. If universities set their fees too high to pay for the education and sustenance of needy students and reach the floor of 20 percent of expenditure then many more students will be unable to pay the fees and theoretically fall into the needy bracket. In other words, making education more expensive to subsidise the needy is impractical as it also adds to the numbers of the needy.

The question of making education affordable while ensuring its fiscal viability and quality constitutes the central problem in the provision of higher education in India. Student loans, like in the US, could be a solution. The regulator, IRAHE, could select meritorious students who are needy and unable to pay the fees in the institutions for which they would otherwise qualify. The government could guarantee the payment of these loans to banks; however, it is the student who would be liable for repayment in instalments once education is completed and the student is financially independent.

A certain amount of interest subsidy by the government might be needed but this can be justified on the grounds that education is a resource which has powerful network externalities. What has been done till now is to tax the suppliers to subsidise recipients which can have a welfare effect which might well be negative.

5. Conclusions

As summed up by the NKC, less of regulation of entry and more of governance of higher education is the need of the hour. With increasing diversification of economic activities the needed variety in human capital has also increased. Hopefully freer entry into the field of non-vocational educational institutions, unfettered by traditional bureaucratic rules, might be part of the answer.

However, regulatory institutions might have to be even more proactive to ensure that higher educational institutions in India do evolve according to the current and future needs of the Indian labour market. For example, organisation of symposiums and seminars on how labour market needs might change in the future can help in the development of new educational institutions which can cater better to future requirements.

While deregulation of entry leads to more variety, governance of education outcomes is necessary to ensure that education is of good quality and provides the students value for money. In short, monitoring of outcomes is important and promotion of accountability of institutions to students is necessary. This can be done by involving students in the evaluation of quality of education as well as testing of student skills by a third party. There is also a need to provide incentives for good teaching by linking career advancement of teachers to the student quality produced.

However, the most important need is for the simultaneous provision of quality and equity in higher education. Scholarships for needy students might be too big a burden on the finances of higher educational institutions; moreover, it is doubtful whether their coverage can be wide enough to cover a large number of such students. Low or zero interest student loans guaranteed by the government and payable after the student attains financial independence might be the answer.

Questions

- Is a level playing field between the private, public and international educational institutions desirable?
- Is free entry (to the extent possible) the most desirable way of ensuring a level playing field? How can free or near free entry be operationalised?
- How can the quality of higher education be ensured? Is monitoring of outcomes/results a suitable and viable method? How can outcomes/results be quantified or measured?
- If quality of a higher educational institution is not found to be satisfactory what remedial action should be taken?
- What is the role of accreditation as a signal of quality of education? Should there be a single accreditation authority or multiple ones which can be only licensed by the higher education authority (as proposed by the NKC)?
- How does the regulator ascertain that those granted degrees by professional institutions in streams such as medicine (intimately linked to human life and health) possess the required skills and knowledge to practise their profession and increase human welfare without being likely to cause human injury/harm?
- What can the regulator do to ensure that the type and variety of higher education being offered reflects the present or future needs of the labour market?
- How does one ensure equity along with quality in higher education? Is it necessary to generate resources for the economically disadvantaged from the fees received by educational institutions?
- How does one finance the education of needy students without imposing too much of a burden on either the government or the needy student?

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