

Foreign Education Regulatory Bill- A Ray of Hope or Despair

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Abstract : *The Foreign Education Regulatory Bill, introduced in the Parliament in 2010 by the Manmohan Singh Government was considered a milestone that would enhance choices, increase competition and benchmark quality - according to Kapil Sibal, the then HRD minister of India. The Bill still awaits its fate to be passed in the Parliament and create an upsurge in the quality of higher education in the country. India, which boasts of the largest youth population, giving it the power to elucidate itself to the highest ranks of prosperity – has to shoulder the responsibility to enlighten the path of its massive population. It has to qualify itself to be eligible to refract the course of its education system from the present subordinate levels to a much higher rank. Unfortunately the recent status of the Indian Higher Education sector is far behind its American, European and some of the Asian counterparts. With globalization at the forefront, Nations have understood the significance of unified growth. India can pursue this path of aided-growth in the field of higher education through collaborations with other successful nations – a partnership that would benefit both. In this milieu, can India provide a conducive ground to the foreign universities to flourish as well as benefit the Indian students enormously? Will foreign universities suffice for Indian Higher Education challenges? There is a strong debate on whether foreign educational institutions will finally be allowed to operate and the benefits accruing thereby. This paper attempts to examine the impact of Foreign Universities Bill on the Higher Education of the country.*

Keywords: *Demographic Advantage, Foreign Universities, Higher Education.*

I. Introduction

Vice-President of India Mr. Hamid Ansari said that India had the third largest higher education system in the world and informed that the country had 652 universities and institutes which provide higher education. Through these educational institutes 27.5 million registered students get education. At the time of independence in 1947, India had 20 universities and 500 colleges. These were the legacy of the British and were mostly created in the mid-nineteenth century, and were solidly based on an examination based approach to universities, as was the case with the University of London, with an ‘Anglicist’ orientation[1]. By 2013, India had 727 universities, over 35,000 colleges, and nearly 13,000 ‘Stand Alone’ institutions [1][2]. Thus an unprecedented growth has been seen in higher education in India. We have gross enrollment ratio of about 17.9% now, while an ambitious target of 25.2% has been envisaged by the end of 12th Plan [3]. The demand for higher education and the magnitude of planned reforms over the next ten years in India will provide the largest opportunity in the world for international higher education institutions and education businesses.

1. Overview of growth of Indian Higher Education:

There seems to be a Supply Demand gap in higher education With a Gross Enrolment Ratio (GER) of 19 per cent, India is still below the world average. With relatively stagnant growth of public sector, private sector now accounts for 63 per cent of the total higher education and 52 per cent of the total enrolments in Indian higher education. According to a report published by British Council by titled “Understanding India” by 2020, the Indian government aims to achieve 30% gross enrolment, which will mean providing 40 million university places, an increase of 14 million in six years. Key challenges facing the system include quality assurance, credit transfer systems, movement between higher education and vocational skills streams and teacher training in higher education [4]. There is an urgent need for systemic change in affiliated colleges to improve the quality of teaching and learning. Private businesses are waiting impatiently to enter the higher education market. The private sector will continue to grow, but ‘for-profit’ higher education is unlikely to be sanctioned soon. Many more providers are waiting for legislation which would allow them to enter the market. The private sector is expected to play a significant role in the future expansion of higher education in India. There is a need for international partners to take a long term view and build closer, multi-dimensional relationships with Indian HE institutions.

2. Foreign Educators Bill: A Look

India's Minister of Human Resource Development, Mr. Kapil Sibal introduced the "The Foreign Educational Institution (Regulation of Entry and Operation) Bill" to Parliament in early May, 2010, after being cleared by Cabinet on March 15, 2010. The goal of the bill was to allow foreign education providers to establish campuses in India and grant degrees, while setting out the conditions and regulations that would govern the operations of these educational institutions.

The major provisions of the bill include conditions such as [5] :

- A USD \$11 million (minimum) corpus fund will need to be created by the aspiring Institute to be allowed to operate in India.
- Each institute will have to be registered with the University Grants Commission (UGC) or any regulatory body in place at the time of registration. Provisions of Section 25 of the Companies Act will be applicable for the foreign Institutes. Under this provision, institutions cannot remove surplus revenues generated in India but will be required to reinvest it to further the expansion of the institution in India.
- Foreign education providers can be involved in other activities like consultancy projects and the profit generated from those projects can be taken back.
- The bill has a provision under which the government can reject an application of a university if it feels that the venture will have an adverse impact on national security.
- The proposed bill prescribes an eight-month time bound format for granting approval to foreign educational institutions to set up campuses.
- Institutions will be required to go through different levels of a registration process and then will be finally registered with UGC or any other regulatory body in place.

Foreign education provider (FEP's India) is the initiative of the Government of India to allow the foreign universities set up their educational campus (colleges and universities) in India. It talks for the free entry to A-grade global universities into India without any restriction. This will include foreign universities setting up courses or entire institutions in India. No doubt such a step will have a great impact on Indian education system especially the higher education. US in particular is very keen to pursue the trade in education services, as it supports more than 4 million jobs in US economy and accounts as the 5th largest service sector of exports. But the question is how far Indian education system is ready to take on Global universities face to face? During the early 1990s some of the foreign universities attempted to market their programs of higher education in India. However, these were in collaboration with Indian partners [5].

II. Critical Analysis Of Foreign Education Bill

2.1 Positive Impact of the Implementation of the Foreign Educator Bill

2.1.1 Check the Brain Drain: Brain drain is the current socio-economic problem. A recent study conducted by Indian Institute of Management- Bangalore (IIM-B) shows that the students going for higher studies abroad has increased by 256% in the last 10 year [6]. When 53,000 Indian students went abroad for higher studies in 2000, the figure shot up to 1.9 lakh in 2010. The steady outflow of our nation's talent, especially those educated, at the cost of the tax payers' money, has caused concern to the government.

Table 1: Country-wise Data on the Number of Students going Abroad for Higher Studies

Country	Students going abroad
China	421000
India	153300
Republic of Korea	105300
Germany	77500
Japan	54500

Source: UNESCO's Report- Global Education Digest, 2009

2.1.2 Boost to Research Work: In fact, research is one area where the foreign universities can make a world of difference to Indian students and there must be ways to encourage some research funds available with these universities to flow into India. Research budgets remain underspent due to a lack of good quality research proposals so here international collaboration can help through professional networking and specific skills such as proposal writing. India does not have enough high quality researchers. The number of students taking PhDs and entering research posts is very low: 4,500 PhDs are awarded per year in science and engineering, compared to 30,000 in China and 25,000 in the US34 [7], where a systemic segregation of teaching and research is maintained. But in India, most universities are teaching-focused and hardly provide students with any research experience or the skills which would prepare them for research careers. The following graph shows the enrollment level in the Indian higher education arena. Majority of the aspirants go for graduation, very few attempt post graduation and the number declines drastically for research and other fields.

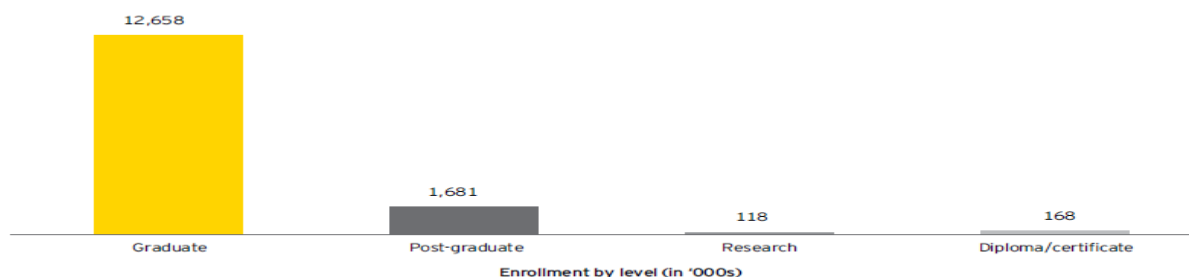


Figure 1 : Enrollment levels in the Indian Higher Education System

2.1.3 Increase in Revenue: The United Nations Development Programme (UNDP) estimates that India loses \$2 billion a year because of the emigration of computer experts to the U.S. Indian students going abroad for their higher studies costs India a foreign exchange outflow of \$10 billion annually. Thousands of Indian scientists, doctors, engineers and other qualified persons have migrated and are staying in other countries. Thus, this drain of revenue can be saved by establishing universities of international standards with foreign aid in terms of curriculum, faculties, management techniques etc. This would not only restrict the Indian revenue to flow out but with the creation of universities with a cosmopolitan environment, a more easy acceptance for all cultures and religions, and by making India a more friendly nation; students from all over the world could be allured to India; thus causing an increase in Indian revenue. Presently, a large number of students come to India from countries like Afghanistan, Bangladesh, Bhutan, Eritrea, Ethiopia, Fiji, France, Germany, Indonesia, Iran, Iraq, Japan, Jordan, Kenya, Lebanon etc. Foreign universities in India may further this movement extensively. Moreover, this deal would also be beneficial for Indian students financially, as they would have to pay the fees in rupees instead of dollars. Thus, a lot of Indian money would not leave the shores.

2.1.4 Better Infrastructure: Library, IT facilities as well as School and Classroom factors, as distinct from community and family influences, are considered to explain between eight and fifteen per cent of the variation in student outcomes. Two of the key characteristics of effective schools are the establishment of a stimulating and attractive learning environment and a concentration on teaching and learning [8]. Both of these characteristics are influenced by school infrastructure. However, if the foreign universities are able to set up their campuses in India with lesser expenditure, then the Indian local institutions would face a tough competition, both for students and experienced resource persons. Students would naturally prefer the foreign set-ups due to their high quality infrastructure and the wide variety of exposure right at their door step. Such facilities cannot be provided by the local institutions except for a few. No doubt the education would be quite costly but still would be cheaper compared to going abroad for higher studies. Moreover, this competition would enforce the Indian institutions to better their infrastructure, thus benefiting the students in turn.

2.1.5 Enhancement of Educational Quality and Standard: Strong national policies that give a high priority to improving learning and teaching are essential to ensure that all children in school and universities obtain the skills and knowledge they are meant to acquire. NAAC has so far completed accreditation of only 140 out of the 378 universities and 3492 out of the 14000 colleges. The results of the accreditation process thus far, indicate serious quality problems. Only 9% of the colleges and 31% of the universities are rated as 'A' grade and the rest fall in 'B' and 'C' categories [9]. Thus, establishment of foreign universities would hopefully bring about an enhancement of educational quality and standards in the new as well as the existing educational institutions, ensuring that Indian students acquire skills and qualifications of the level that could be transferred across the globe.

2.1.6 Better Employment Opportunities: The last cluster of broad-based highly-accessible universities is designed to expand the reach of higher education to all eligible and deserving students in the country. They offer a wide range of courses aimed at providing a holistic education to India's masses, and play a major role in promoting equity and access. Students graduating from such universities would be entitled for employment also at global level, as they would get the leverage of getting the degree of renowned universities.

2.1.7 Unchanged Cultural Ethos: Students would be staying in their own country and getting the much wanted degree from internationally acclaimed institution. Thus, an international education without compromising on the pressure of befitting in a changed cultural environment seems to be an appealing deal.

2.2 Negative Effects of the Implementation of the Foreign Educator Bill

2.2.1 Profit Motive and Profit Repatriation: University education is, by law, not-for-profit in both public and private sectors [4]. The reality is a little more complicated. The majority of private institutions in India operate a widely prevalent means of making money through illegal 'capitation fees', in the form of one-off fees paid by the student, off-the-books. Ironically, India prohibits the foreign universities to do so by inserting the clause in the bill that, 'foreign education providers will have to maintain a corpus fund of about Rs 50 crore. And that upto 75 per cent of any income generated has to be utilised in developing the institute's Indian campus and the rest has to be invested back in the fund. Would that motivate the foreign universities to come and do business here? "Why would any institution want to set up campuses, invest in infrastructure and faculty when they are not allowed to pass on any income to their home campus?" questions Mr. Sanyal, Dean, Narsee Monjee Institute of Management Studies [10]. Thus, entry of foreign universities would not be an unmixed blessing. They surely would come with a commercial motive. Profit repatriation issue would be a concern for these universities as that would be the actual motive for their massive financial, physical and mental investments in India.

2.2.2 Miss the International Exposure: Global insight by means of lectures, interactive discussions and cultural experiences are invaluable for students. Recent survey of US professionals from a wide variety of disciplines reveal some interesting notable trends, particularly for accounting and finance professionals. The survey reveals that 55% of accountants consider working abroad either "essential" or "extremely useful" for their career development [11]. The learning that occurs in terms of living abroad and interacting with students from different countries is what students studying in a foreign university on Indian shores would miss.

2.2.3 Concern over Lack of Regulatory Bodies : Out of the 18,064 colleges that exist today, only 14,000 come under the purview of the University Grants Commission (UGC) system, with permanent and temporary affiliations. UGC assists only 40% (5,625) of these 14,000 colleges recognized under Section 12(b) of UGC (permanent affiliation) Act, which meet the minimum eligibility norms, mostly in terms of physical facilities and infrastructure. Lack of proper regulatory agencies is the only lacunae in allowing the foreign universities to enter the Indian Education System. The course material, the evaluation criteria, the faculty standards, the infrastructure, their accreditation, their standard of education and legal status in the country they hail from; every aspect needs to be checked and compared with the benchmark set in our own country. During the Tenth Plan, NAAC was strengthened with the opening of four regional centers so as to speed up the accreditation process. NAAC has so far completed accreditation of only 140 out of the 378 universities and 3492 out of the 14000 colleges. Thus, the existing regulatory bodies in India, hardly are able to regulate and maintain the standards of Indian universities, how would they handle the additional burden of foreign universities? Time and human resource constraints are large issues, if establishment of new regulatory bodies are considered.

2.2.4 Lack of Economic benefits: There will definitely be Economic benefits, because of students going abroad. Many students are taking loans and repaying it, and many are getting full scholarships to study abroad. If we do an analysis of educational loans, we would learn that many banks have been giving loans of Rs. 10 lacs or more to study abroad [12]. Most of these loans are repaid, and they are repaid when the student is working in the foreign country. Thus, a sizeable amount "inflows" back as loan and interest repayment. There is another important "inflow" because of students going abroad. India topped the remittances from foreign countries in year 2008. Non-resident Indians (NRIs) have sent \$ 63.6bn to India through remittances. Overseas Indians have sent more money than ever before. This constitutes about 3.3% of our total GDP. This is the highest amount of money sent by overseas nationals to any country, according to the World Bank data [12]. India has been the largest recipient of remittances since 2008 when it surpassed China. Out of this the total remittances coming from gulf countries (where most of it come from skilled laborers), is about \$18 billion (source world bank). The rest of it comes from countries like US and UK. That amounts to \$25.5 billion dollars. Indians enter into higher education in developed countries like USA, and then stay there to work in white collar professions. Then, they remit back to India generously [12]. If proper economic analysis is made, it surely could be proved that India gets more 'inflow' because of the 'outflow' of \$4billion that is spent by Indians abroad.

2.2.5 No Assurance of Quality/Job Security: In absence of UGC regulations to be adopted and continuous monitoring of NAAC and other regulatory bodies it would be difficult to guarantee quality. There is neither recognition of foreign degree in India nor any mechanism in place for the mutual recognition of degrees abroad or at home. The holder of a foreign degree earned in India may find it difficult to achieve job security, thereby increasing the uncertainty of a professional career. There is at present no system of quality assurance and accreditation of cross-border education operating in India. An important aspect is that private higher education partners rely mostly on guest faculty. It is also not clear who bears the responsibility of private institutions in India or the foreign collaborators and providers of foreign degrees.

2.2.6 Various Other Issues: The other issues related to the following Bill are:

- **Land acquisition** issue is a critical issue as huge investments in terms of finance and area would be required to set up the Foreign Universities. How, where and who would be providing them land to establish these universities could be a major concern.
- **Labor issue** is another integral issue. How and in what currency the human resources working in the universities would be getting their salaries, would be a grey area.
- No final bill confirming the decision of HRD Ministry has been passed yet.
- Profit repatriation would be an issue.
- Trade-off in Parliament for the initial silence on the quota issue. Admissions related to scheduled caste, scheduled tribes and OBC is still unclear, widening disparity in education as it would be available to only students who would be able to afford it is another issue that needs to be considered.
- The costs of setting a campus comparable to their native land in India would mean fees pretty close to those abroad especially since endowment money cannot be used to offset costs.
- Evaluating the foreign institution before permission is given to set up a branch campus or other initiative is another issue related.

3. Reviewed Clauses in the Foreign Education Providers Bill [13]

When the Foreign Educational Institutions (Regulations of Entry and Operations) Bill was introduced in Parliament in 2010, around 50 foreign universities had evinced interest in setting up operations in India. But delay in passing the Bill has trickled down the number. In 2013, the Ministry for Human Resource Development (MHRD), had reviewed certain clauses in the Bill to attract more overseas institutions to set up campuses in India, as per the recommendations by the standing committee.

- Revision in the minimum corpus of Rs 50 crore for a foreign institution to set up campus in India was changed. Instead, the corpus would be based on certain classifications. For instance, for engineering, vocational and other programmes, it could be less than Rs 50 crore whereas for medical programmes, the corpus could be more than that, which the health ministry would decide.
- Revision in the pre-condition that stipulated that a foreign education institution couldn't utilise more than 75 per cent of the corpus fund towards development of the institution in India. The ministry might allow these institutes to invest the surplus in growth of the institution after a certain lock-in period.
- No part of Foreign Institution's revenues could be repatriated. However, they could use 100 per cent of the same for further investment on the institute.

III. Suggestions

Respective Accreditation Boards must review and certify these universities before coming to India. According to 2011 Report for the center for measuring university performance Top-ranked Johns Hopkins University, for example, committed nearly \$40 million toward environmental science research in 2012. Most of the ranked schools allocate between 50% and 80% of their R&D budget toward science-related research, particularly in the fields of medicine and biology [14]. There should be strong emphasis on research in these universities. The commitment to do active research in frontier areas should be obtained from these universities before allowing them to operate in India. There should be a minimum research expenditure made by the foreign university operating in India. For example, a small university like Iowa State University spends \$60 million a year in US, and we would like similar research investment commitment from universities willing to come to India. Committees consisting of economists, sociologists and analysts who can monitor and review the operations of these universities can be established.

IV. Conclusion

A balance between these positive and negative aspects by making policies advantageous to our students and the economy can be made and the future concerns and challenges could be lessened by making use of this tool. The doors should be opened but with a check/ valve of some reliable monitoring agencies. To conclude it is said that, we should lay down specific guidelines for registration of foreign education service providers, Restriction on the type of legal entity that can operate. Limitation on the remittances, Compulsory investment of a portion of surplus on R & D, Non-discrimination in salary structure on ground of nationality, Pre-appraisal of the foreign education service provider by a designated agency and transparency in admission procedures could reap the benefits accruing from these foreign universities. However, considering the take of the new Government on Foreign Education Provider's Bill, the scene doesn't reveal optimistic. Although the present HRD minister has decided to focus on a legal framework for allowing foreign universities to set up campuses in India and curb unfair practices by education institutions as part of the human resources ministry's legislative agenda [15], the present government is reluctant in passing the Foreign Education Provider's Bill and is rather inclined towards strengthening the Indian Educational Institutions.

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