

Neoliberalism, GATS, and Higher Education in India: Moving Away From Its Original Objectives

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ABSTRACT: Privatization of higher education is not a new phenomenon in India. However, since India started embracing neoliberal policies in 1991, the objectives of higher education in India have increasingly shifted from philanthropy to profit-maximization. This paper is an empirical attempt to show how the higher education system in India is gradually changing with the demands of neoliberalism and leaving behind its original objectives of promoting national development through equity and quality. This paper will also suggest some possible solutions.

KEYWORDS: neoliberalism; GATS; privatization; higher education; India

Introduction

The five goals of higher education in India are: Greater Access, Equal Access (or Equity), Quality and Excellence, Relevance, and Promotion of Social Values (Thorat 2006). Higher education provides people with an opportunity to reflect on the critical social, economic, cultural, moral, and spiritual issues facing humanity. It contributes to national development through dissemination of specialized knowledge and skills. In addition, it is also considered fundamental for both material and spiritual development, and serves to further the goals of socialism, secularism, and democracy enshrined in the Constitution of India (NCERT 1993).

However, the recent neoliberal privatization of higher education in India side-steps its original goals. Since India started opening its economy in 1991, the pervasive influence of neoliberalization has been seen

on all of its sectors, including education. Its most significant effects can be seen in the commodification of higher education and the corporatization of post-secondary institutions. This has created a three-pronged issue: elitism, standardization, and market-oriented education. This paper is an attempt to understand the politics of this process.

The Problem

Neoliberalism has been defined in many ways. David Harvey in his *A Brief History of Neoliberalism* has given a wide-ranging definition of Neoliberalism.

Neoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills

within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices. ... Furthermore, if markets do not exist (in areas such as land, water, education, health care, social security, or environmental pollution) then they must be created, by state action if necessary. But beyond these tasks the state should not venture. [Harvey 2005: 4]

This definition of Neoliberalism clearly indicates that where a market does not already exist (i.e. in the areas of land, water, education, health care, social security, or environmental pollution) it must be created by the state.

Market is created to sell commodity; however, education is not a commodity to be bought and sold. One can buy the means to an education, but not the hard graft of autonomous learning itself. Professor John McMurtry, among others, has noted that education and unfettered capitalism and globalization hold opposing goals, motivations, methods, and standards of excellence as well as standards of freedom. Another prominent scholar of education Prof. Dave Hill argues that market suppresses critical thought and education itself. Market does promote learning of skills, but only considers which are appropriate in the different markets (Hill 2011).

Until not so long ago, education was mostly produced and consumed within national boundaries, and this was the reason economists used to describe it as “non-traded” (Nayyar 2007). However, the spread of markets and the momentum of globalization during the past three decades have transformed the world of higher education almost beyond recognition. Market forces, driven by the threat of competition as well as for the lure of profit, have led to the emergence of higher education as a core area business. This was bolstered by another factor, the technological revolution, which led to a dramatic transformation in distance education as a mode of delivery. “The internet has truly revolutionized how knowledge is communicated. In the world’s most developed economies, the presence of ICTs has expanded exponentially and touched all dimensions of the higher education enterprise”(Altbach et al. 2009). For example, in

India, currently 18 to 20 percent of enrollment in higher education is in the programs offered by the Indira Gandhi National Open University (IGNOU) and State Open Universities (Sharma 2014).

There is another, more serious problem with corporatization of education as Tandon puts it:

Corporations operate on the principles of cost reduction and profit maximization. These require the introduction of standardization and the packaging of the product in compact, measurable, byte-like, configuration. Applied to education, these approaches would possibly negate its basic fabric and purpose. The values associated with education have always included encouraging the spirit of openness that represented inquiry, diversity, research and limitless learning. Corporatization of education has led to sharp polarizations in society by dividing the people in the receiving end on the basis of their capacity to purchase the service. [Tandon 2005:2-3]

Besides the problems associated with standardization and accessibility, another problem is the content of the education. According to Nayyar:

In the world of higher education, markets and globalization are beginning to influence universities and shape education, not only in terms of what is taught but also in terms of what is researched. In the sphere of teaching, there is a discernible departure from the liberal intellectual tradition where education was about learning across the entire spectrum of disciplines. In the earlier days, choices of students were shaped by their interests and/or by the priority of the society. There was never a perfect system. Even so, universities endeavored to strike a balance across disciplines, whether philosophy, languages, economics, mathematics, physics or life sciences. But this is changing fast, as students and parents display strong revealed preferences to demand higher education that makes young people employable. The popularity and the availability of courses are thus being shaped by markets. ... Similarly, markets are beginning to exercise influence on the research agenda of universities as resources for research in applied life sciences, medicine, engineering or economics are abundant while resources for research in philosophy, linguistics, his-

tory or literature are scarce as there is a premium on applied research and a discount on theoretical research. [Nayyar 2007:32]

Thus, the good students are not studying basic sciences, social sciences, or literature, creating a huge vacuum in basic research. This is now a very common phenomenon across the world as well as in India (Bevins et al. 2005; Varghese 2008; Lyons and Quinn 2010). According to Varghese,

Higher education, in the context of globalization, has become a market-driven activity to promote an international and multicultural outlook among graduates to suit the requirements of a global labor market centered on knowledge production. Institutions of higher education have not only become global in their orientation and operation but have also become yet another sector offering investment opportunities for producing and selling a good or service for the global market. Market orientation and profitability are replacing the national concerns and social functions of institutions of higher education. [Varghese 2009:17]

Treating education as a tradable commodity, especially in the international market, is also detrimental to the social fabric of a nation and a step towards “McDonaldization” as well as “Cocacolonization” of culture.

Not only that, a UNESCO (2003) paper on *Higher Education in a Globalized Society* states that the emergence of cross-border higher education provision and trade in education services bring education within the realm of the market and this may seriously affect the capacity of the state to regulate higher education within a public policy perspective. Declining policy capacity of the state could affect weaker and poorer nations and benefit the more prosperous ones.

We will now see the global education market and the GATS (General Agreement on Trade in Services) and individual country’s autonomy to make rules in its education sector.

Global Education Market

Education services have become one of the single largest service sectors in terms of shares and employment in many economies worldwide. The

US\$2 trillion global education industry is the second largest industry after health care in the service sector. The recent annual growth rate of the education market is more than six percent, and globally some 150.6 million students have enrolled in higher education (Altbach et al. 2009). The higher education sector is the most rapidly growing sector in education services, employing about 3.5 million people and the total addressable global offspring market is approximately US\$300 billion (GOI 2006). In India, the higher education market is worth US\$15 billion and according to ASSOCHAM (Associated Chamber of Commerce and Industry of India) is forecasted to grow to US\$30 billion in the next 5 years. It is the largest target market in the higher education sector in the world with 234 million individuals in the 15-24 age group (FICCI 2011). So, it is understandable that this is a very attractive market for private investment.

World Trade Organization (WTO) and Education

In this section, we will discuss the World Trade Organization’s mandate for education services, which will help us to understand member countries’ obligation to open up education services for foreign investment and its implications.

The WTO was established in 1995 to make international trade easier. It is a replacement for the General Agreement on Tariffs and Trade (GATT), established after the Second World War along with two other “Bretton Woods” institutions, the World Bank, and the International Monetary Fund (IMF). The WTO agreements cover goods, services and intellectual property. They spell out the principles of liberalization, and the permitted exceptions. They include individual countries’ commitments to lower customs tariffs and other trade barriers, and to open and keep open services markets. The underlying intention of WTO is to open the vast market of developing countries for the goods and services of developed countries.

The World Trade Organization has agreements on three broad areas of international trade: GATT (General Agreement on Trade and Tariff) for trade in goods, GATS (General Agreement on Trade in Services) for trade in services, and TRIPS (Trade

Related Intellectual Property Rights) for trade and investment in ideas and creativity. GATS cover 12 service sectors, including education. As of March, 2013, WTO had 159 members. These member-countries could make individual commitments under GATS stating which of their services sectors they are willing to open to foreign competition, and how to open those markets. However, trade in the service sector has seen little progress. Education services seem to be the least committed sector: so far, only 57 countries have made commitments to the education sector under the WTO.

Article I.3 of GATS defines the scope of the agreement as follows: “Services” include “any service in any sector except services supplied in the exercise of governmental authority;” and “a service supplied in the exercise of governmental authority” means “any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.”

There is an ambiguity as to whether the public post-secondary sector would be subject to GATS. If the public post-secondary sector were found to be providing education “on a commercial basis,” or if it were found to be providing education “in competition with one or more service suppliers,” then it is not a “service supplied in the exercise of governmental authority” and would be subject to the full provisions of the GATS.

The phrase “commercial basis” is not further defined in the GATS and would thus be subject to interpretation by a GATS dispute panel. The argument has been made that public universities and colleges that are charging more than token tuition fees, are providing education on a commercial basis.

On the question of public institutions operating “in competition with one or more service suppliers,” it is clear that there are a great many private providers of post-secondary education and training in almost all the countries, and thus public institutions would be subject to the GATS provisions.

GATS define services trade as occurring via four modes of supply, all of which are relevant to education (Article XXVII):

Mode 1: Cross border delivery: delivery of education services via the internet.

Mode 2: Consumption abroad: movement of students from one country to another for higher education.

Mode 3: Commercial presence: establishment of local branch campuses or subsidiaries by foreign universities in other countries, course offerings by domestic private colleges leading to degrees at foreign universities, twinning arrangements, franchising.

Mode 4: Presence of natural persons: temporary movement of teachers, lecturers, and education personnel to provide education services overseas.

There are some other very important issues like the principle of “Market Access,” “Most Favoured Nation” (MFN) and the notion of “National Treatment.” “Market Access” means the degree to which market access is granted to foreign providers in specific sectors. An individual country determines limitations on market access for each committed sector. The Principle of the “Most Favoured Nation” implies that each member treats all the other members equally as “most-favoured” trading partners. If a country improves the benefits that it gives to one trading partner, it has to give the same “best” treatment to all the other WTO members so that they all remain “most-favoured.” The notion of “National Treatment” implies an obligation to treat both foreign and domestic service suppliers in the same manner. Thus, it is implied that a foreign educational institution can demand subsidies similar to those received by public universities and colleges in a country.

However, “there are two options to protect public post-secondary education from the full provisions of the GATS” as suggested by Clift (1999). He suggested to close doors to private providers in higher education and declare higher education a government monopoly. However, that could not be defensible in international trade law if there is any existence of private institutions in higher education. So, the only way to protect public post-secondary education from GATS treatment is to withdraw it entirely from the provisions of GATS. That is, the national government would have to indicate in trade discussions that the higher education sector was subject to an “unbound

exemption” from the GATS. An “unbound exemption” means that no commitments have been made to include a particular sector in the GATS provisions, and that the government has maintained its ability to regulate the sector as it sees fit, despite general principles of the GATS.

The Indian Scenario

India has the third largest higher education system in the world (after China and the USA) in terms of the absolute number of enrollment, which is about 23 million, and is the largest in terms of the number of institutions with 35,539 colleges and 700 universities (UGC 2012; Sharma 2014). Out of these, only 8,288 colleges are recognized by University Grant Commission (UGC), and they are mostly public colleges, and 182 universities are private, established by various provincial governments (UGC 2012). UGC is the national regulator of standards. There are various reasons why such a large number of private higher education institutions are not recognized by UGC including quality of faculty, curriculum and infrastructure. In regards to enrollment, around 40 percent of the students are enrolled in private unaided colleges. The rest is either publicly funded or receives some aid from the government. The share of enrollment in all kinds of private higher education institutions at the end of 2012 was 58.5 percent (GOI 2012). Even with such a huge system in place, higher education in India is in a despondent condition. During the period 1950- 51 and 2012-13, the total enrollment at higher education level has increased at an average annual growth rate of 7 percent, yet even after nearly six and half decades of independence, the gross enrollment ratio (GER) in India is lower (around 18 percent) compared to the world average (26 percent). This poses a severe constraint on the supply of qualified manpower.

In addition to the overall low GER, there are significant differences in enrolment ratios across regions, provinces, rural-urban, male-female, social groups, occupation groups, poor and non-poor populations in India (Thorat 2006; GOI 2012). This contradicts one of the goals of higher education in India, i.e. the equal access.

The central and provincial governments share the responsibilities for financing higher education

as education is on the Concurrent List in the Indian Constitution. However, “nearly 50% of the higher education expenditure comes from private sources” (Agarwal 2006). India spends one of the lowest public expenditures on higher education at \$406 per student, which compares unfavourably even with the developing countries like Malaysia (\$11,790), China (\$2728), Brazil (\$3986), Indonesia (\$666) and the Philippines (\$625) (K. Sharma 2007). In the period from 1990-91 to 2004-05, the government expenditure on higher education actually fell from 0.46 percent to 0.37 percent in a total of 3.72 percent spending on education as a percentage of GDP (V. Sharma 2007). In fact, per student, in real terms there was a 28 percent decline in public expenditure from 1990-91 to 2002-03 since liberalization of the Indian economy has started (Mukherjee 2008).

This low spending on higher education is severely affecting quality of education. A recent report by FICCI (Federation of Indian Chamber of Commerce and Industry) states that there are huge shortages of faculty: 45 percent of the positions for professors, 51 percent positions for readers, and 53 percent positions for lecturers were vacant in Indian universities in 2007-08; 48 percent of universities and 69 percent of colleges are deficient in infrastructure and the system is plagued with outdated curricula and ill-equipped libraries (average 9 books per student vs. 53 in IIT Bombay) (FICCI 2011). Universities and colleges are run by part time and temporary teachers who are paid only a paltry Rs. 5,000-10,000 as against Rs. 50,000 per month salary of an assistant professor. Forty percent of college teachers are temporary in India (Times of India 2013).

So, it is beyond a doubt that India is facing multiple problems in the higher education sector and the incidences of low public spending on higher education and low GER and wide variations across different groups are both signs and symptoms. In addition to that, India is witnessing the harsh reality of growing unemployment among its graduates that co-exists with skill shortages in many areas. According to the Labour Bureau’s Third Annual Employment and Unemployment Survey 2012-13, the unemployment amongst the graduate youth that was at 19.4 per cent in 2011-2012 increased to 32 per

cent during 2012-2013 (GOI 2013). The emergence of a neo-liberal global economy due to increased trade, investment, and mobility of people and more recently work across borders have forced nation states to adapt their systems of higher education to the changed global realities. In an interview in Kolkata former HRD (Human Resource Development) Minister said that his ministry has aimed to increase the enrollment in colleges and universities from the current 15 percent to 30 percent, which would translate to 40 million students by 2020. To support the 40 million students, an estimated 800 new universities and 40,000 colleges are said to be required according to HRD ministry's calculation (India Education Review 2011). Raising seats in higher education by about 50 percent of the present enrollment ratio would require about US\$40 billion. The National Knowledge Commission (NKC) also estimated the country needs 1,500 universities by 2015 (NKC 2010).

Public institutions without adequate funds to hire good faculty, offer scholarships to disadvantaged groups, and expand enrollment are finding it harder to meet the growing demand. So, there is a steep hill to climb.

To fulfill this ambition in accordance with the goals of higher education in India, in the recently concluded five-year plan (2007-12), which was described as an Educational Plan, allocation to higher education was scaled up and major expansion was planned. As many as 30 new central universities were to be set up, six new Indian Institutes of Management, seven Indian Institutes of Technology, 20 National Institutes of Technology, four Indian Institutes of Information Technology, nearly 2,000 colleges of engineering and technology, 1,300 polytechnics, 400 undergraduate colleges, and many other institutions (Tilak 2012). However, the government aims to realize the promised expansion of higher education with the active participation of the private sector and through various modes of public-private participation (PPP). According to the Planning Commission of India, 88 percent of the funds required for the expansion were to be generated through different modes of PPP. The approach paper to the 12th Five-Year Plan (2012-17) states, "Private initiatives

in higher education, including viable and innovative PPP models, will therefore be actively promoted. The current 'non-profit' prescription in the education sector should be re-examined in a pragmatic matter" (Government of India 2012).

The National Knowledge Commission has recommended diversifying the sources of financing to encourage private participation, philanthropic contributions, and industry linkages in addition to increased public spending in higher education (NKC 2010).

India and GATS

Since this huge amount cannot be provided by the existing trend of public financing, and under pressure from international trade along with domestic economic compulsions, the Ministry of Commerce is arguing that the higher education sector in India should be "freed" and the country should open its doors to foreign investment. This prompted the Government of India's approval for 100 percent automatic Foreign Direct Investment (FDI) in higher education in April 2000. Now, foreign educational service providers can enter India without any regulation as long as they do not want UGC/AICTE (All India Council for Higher Education) recognition. As well, India had also included higher education services in its Revised Order of GATS in August, 2005. However, later on, it was withdrawn possibly due to the differences between the Ministry of Human Resource Development and the Ministry of Commerce.

Besides, the Government of India introduced the Foreign Educational Institution (Regulation of Entry and Operation) Bill, 2010, in the parliament and was very keen to pass it. The bill seeks to regulate the entry and operation of foreign institutions, which would set up centers and offer degrees in India. Although 100 percent foreign direct investment through an automatic route has been permitted in higher education since 2000 as mentioned above, this does not allow granting of degrees by foreign educational institutions from abroad. This bill would clear this obstacle. However, the opposition, primarily the Left (CPIM, CPI, FB, and RSP) and other non-Congress parties, repeatedly postponed the

tabling of the Foreign Universities Bill. According to the Left, allowing foreign direct investment and foreign teaching staff into the country will distort the already elitist educational structure in the country. It will make education more commercial and there will be no regulation and control over such institutions. One important concern of this bill is that the quota (reservations for backward sections of the society) laws will not be applicable to foreign universities setting up campuses in India. The proposal was then sent for study to a parliamentary committee and was never revived because the UPA did not have the numbers to get it cleared in the Rajya Sabha (Upper House of the Parliament of India).

Thus, as the former UPA government (United Progressive Alliance, led by the Indian National Congress) was unsure whether it would be able to pass the bill in parliament, the Human Resource Department (HRD) Ministry asked the UGC to identify possibilities within the existing laws of regulating and allowing the foreign educational institutions. The two possible ways of going about it are allowing these institutions to enter as “deemed universities” under Section 3 of the UGC Act, 1956, or as private universities under the provincial laws.

Even with these two ways, there is still one most important barrier to make higher education a for-profit sector: the court ruling for not-for-profit prescription. To overcome this barrier, it is reported that the HRD has sent proposals to the Department of Industrial Policy and Promotion and the Department of Economic Affairs to permit foreign universities to open their campuses in the country as companies as provided under Section 25 of the Companies Act. In fact, many institutions are already set up as private limited entities under this Act. Although these institutions cannot offer degrees since they are not recognized by AICTE or UGC, they can run professional programs (Mathews et al. 2013).

All these factors are linked with developments intrinsic to the process of liberalization, and were accelerated during the 1990s, with the UGC appointed Punnayya Committee (1992-93) recommendations that 25 percent of the recurring expenditure be recovered from the students, and the 1997 Ministry of Finance proposal that higher

education, including secondary education, be designated a “non-merit good” for which subsidies must be drastically cut.

In 2000, the Prime Minister’s Council on Trade and Industry appointed a committee on higher education, headed by noted industrialists, Mukesh Ambani and Kumarmangalam Birla. In their report *A Policy Framework for Reforms in Education*, they suggested that the government should confine itself to primary education and the higher education should be provided by the private sector including FDI except those areas of education involving “liberal arts and performing arts.”

This report clearly indicates the rhetoric of “market efficiencies,” in which the state should restrict itself towards non-profit and non-market sectors like primary education and the “liberal arts and performing arts” areas of higher education, and leave the for-profit sector for private investors.

These are the primary reasons for the crisis in higher education today. State withdrawal has contributed to privatisation and commercialisation, while Indian courts have contributed to this trend by giving conflicting and ambiguous judgements (see appendix).

The implications of various courts’ rulings, committee’s recommendations, and government’s policies resulted in an upsurge of private educational institutions, first begun in southern India.

In the 1980s, there was a phenomenal rise in the number of private engineering (and to a lesser extent medical) colleges that was peculiar to the southern states. These colleges were set up primarily by land owning middle-caste groups that had capital that was internally mobilized to establish colleges and universities with significant state support and subsidies (including in the form of assets such as land at subsidized rate). These caste groups organized themselves into charitable education trusts that provided special scholarships to students from their caste group and charged high fees to students from other caste groups (Kamat 2011). Thereafter, the number of private higher education institutions has increased exponentially and their presence is seen across India, particularly in the North and the South, not, however, on the basis of caste, but on profit.

There were 6651 new colleges established in 40 years from 1950-51 to 1990-91; however, within the 10 years of liberalization from 1990-91 to 2000-01, 5460 new colleges were established and a phenomenal number of new colleges – 20,217 – were established in the last 10 years from 2001-02 to 2010-11 (UGC 2012). Thus, in the 20 years of liberalization (1990-91 to 2010-11) 25,677 new colleges were established. The enrollment in higher education has also been increased during this time: almost 3.5 fold increase from 4,925,000 in 1990-91 to 16,975,000 in 2010-11 (UGC 2012). For understandable reasons most of these new colleges are unaided private colleges, and almost all of those private institutions were established after India started embracing neoliberal economic policies.

The latest recommendations for privatization vis-a-vis corporatization of higher education came from the report on Corporate Sector Participation in Higher Education by the Narayana Murthy Committee established by the Planning Commission of India in 2012. The recommendations focused on three core areas: a) an enabling environment to attract investments, b) corporate support for research and faculty development, and c) corporate investment for existing institutions and creation of new institutions and knowledge clusters (Mathews et al. 2013).

There are certain reasons why privatization of higher education is lucrative in India for the investors. India's import interests in Education Services are explained as follows:

Mode 1: Prospects for distance education and degrees from foreign academic institutions.

Mode 2: Every year around 160,000 Indian students go overseas each year (Mainly USA, Australia, UK, Canada, and New Zealand) and spend around 5.5 billion US dollars.

Mode 3: Foreign institutions entering India through twinning and franchise arrangements: Indian students getting foreign degrees, doing professional courses at local branch campuses of foreign institutions in India.

Mode 4: Foreign faculty and scholars teaching in India.

In 2005, the Ministry of Commerce came out with a consultative paper, *Higher Education in India and GATS: An Opportunity* (GOI 2006). Making a strong case for foreign participation in higher education in India, it says: "GATS could provide an opportunity to put together a mechanism whereby private and foreign investment in higher education can be encouraged subject to high quality standards and efficient regulation." According to this paper, in 2004, nearly 14 percent of all international students in the US were from India. It therefore asserts that there is a huge excess demand in India for quality higher education, which is being met by "foreign campuses." The Ministry of Commerce thus recommends: "Services negotiations (in the WTO) could be used as an opportunity to invite foreign universities to set up campuses in India, thereby saving billions of dollars for the students traveling abroad." This paper also advocates for a "balance" between "domestic regulation and providing adequate flexibility to such universities in setting the syllabus, hiring teachers, screening students and setting fee levels." The latest available research on this reported that about 220,000 students go abroad from India (Hill and Chalaux 2011) spending US\$13 billion in 2011 (Booker 2011). There are several reasons why so many Indian students go abroad every year for higher education. It is not only the scarcity of seats in higher education, but also the wide variation in the quality of higher education, the latter probably the more important reason for that, besides better job prospects in developed countries. In India, a few institutions are on the top, some are in the middle, but most are on the bottom compared to international standards, which creates a wide variation in the quality of higher education.

The McKinsey-NASSCOM (2005) report on "Talent Shortage Survey" (GOI 2006) said that 75 percent of India's engineering graduates were unemployable. Another survey by ASSOCHAM (2013) found that only 10 percent of graduates from Indian business schools – excluding those from the top 20 schools – get a job straight after completing their course, compared with 54 percent in 2008 and about 160 schools offering Master of Business Administration (MBA) courses are expected to close

this year (ASSOCHAM 2013). A recent survey endorsed by the Confederation of Indian Industry (CII) and Association of Indian Universities mentioned that “Even as the country would produce over five million graduates next year, only 34 percent of them would be employable as most of them lack necessary skills required for any role in the industry” (DNA 2013).

The Mirage of Foreign Direct Investment and Privatization

There are three models through which a foreign educational provider can establish its presence in another country. Those are: Franchise Model, Articulation Model, and Campus Model.

In the Franchise Model, local institutions would provide physical infrastructure and administration and the foreign institution would provide intellectual property such as curriculum and teaching materials, conduct examinations, and award degrees.

The Articulation (Twinning) Model is about joint degrees. Students would study a major part of their studies in a local institution and the rest in the home country of a foreign institution. Here, academic responsibility is shared and the degrees or diploma are awarded by foreign institutions.

The third model is the establishment of local campuses by foreign providers. Here, everything – the responsibility of infrastructure and administration, as well as intellectual property – is provided by the foreign institutions, using the local faculty and others.

The Government of India has permitted 100 percent foreign direct investment (FDI) in higher education through the automatic route since 2000, thus providing a huge opportunity for investment. Despite this, the FDI remained zero in the first three years, increasing up to Rs. 1033.36 crore till 2008-09 and then falling again. In the past 11 years, the total FDI in higher education has stood at US\$395 million, the yearly average of \$35 million being one-tenth of one percent of what the central and provincial governments annually spends in this sector. Only one institution of India has received more than half of this investment and over 75 percent of the FDI in the past 11 years has come from Mauritius, a tax haven

country (The Telegraph 2011). While the total FDI in education since 2000 has been only about US\$376 million (Rs. 2,051 crore), the outflow of money from India through the expenditure incurred overseas on education by Indian students is estimated US\$5.5 billion (Rs, 30, 000 Crore) a year during the same period, as mentioned above.

There are approximately 631 foreign education providers operating in India. Of these, 440 were functioning from their home countries, five opened their own campuses in India, 60 had programmatic collaboration with local institutions, 49 were operating under twinning arrangements, and 77 had arrangements other than twinning or programmatic collaboration according to Association of Indian Universities (The Hindu 2012). Fee levels are uniformly high in all arrangements. Both “twinning” and program-based collaborations corroborate the low-investment-higher turn model of foreign provision mentioned above, suggesting that the current scenario of foreign participation in the higher education system in India is still not significant.

How some of those foreign educational institutions are functioning can be understood from the following discussion.

There are instances of foreign institutions partnering with unapproved domestic institutions. Degrees awarded under such programmes are not recognized in India. There are also instances of false marketing of foreign programmes, wherein institutions claim to have resources that they don't really possess or give employment guarantees when there is no international equivalence of degrees. At times, students in twinning programmes fail to obtain visas to study abroad at the foreign partner's campus. It's also interesting to note that there has been little or no foreign participation in India's higher education sector through franchises and subsidiaries. In the last 10 years though 150 odd programmes are being offered through twinning programmes, none of them invested money in India. A survey found that 44 out of these 150 odd programmes are unaccredited and unrecognized in their own countries. [K. Sharma 2007:4]

Developing countries do allow foreign educational institutions, but in accordance with their

national interests and priorities. In China, Malaysia and Singapore, the entry of foreign institutions is by invitation only and under the conditions put forward by those countries (GOI 2006).

Studies on education reveal that the advanced countries after achieving an enrolment ratio of 35 percent and above in higher education with state support, go for privatization (Gadekar 2008). This typically shows the two-facedness of the global north to push for the privatization of higher education in developing countries through the World Trade Organization to expand their own market even when the enrollment ratios in developing countries are very low.

The private providers minimize costs by compromising the quality of education provided in their institutions to maximize their profit. Besides compromising academic standards, misrepresenting courses, hiring low quality faculty, and practicing corruption in admission process, they are also increasing their revenues either through very high tuition fees and/or capitation fees. A capitation fee refers to the collection of large amounts by educational bodies not advertised in the prospectus of the institution, usually in exchange for admission to the institution. A medical student intending to graduate from a private medical college has to bear a cost of US\$200,000-250,000. Some private universities are getting “deemed university” status by the provincial governments even before admissions are open; thus institutions with no track record are getting autonomy.

At the beginning of 2010, the HRD Ministry of India decided to de-recognize as many as 44 “deemed universities,” spelling uncertainty for nearly 200,000 students who are enrolled with them. The ministry’s decision amounts to an acknowledgment of irregularities in conferring the “deemed” status to these institutions.

There is another problem with the provincial approval of private universities. An educational institution recognized in a particular province does not need to limit its operations only to that province. This meant that universities approved by the government of one province are not accountable to the government of the provinces where they have set up their branch campuses. “This is increasingly becoming a trend with foreign universities, especially

among those who do not want to set up their own shop here, but would like to benefit from the degree-purchasing power of the upwardly mobile classes of India” (Reddy 2008).

A study on the partnerships between Indian and foreign institutions in higher education by Kim Weerts (2009) states that among the 19 institutions in Delhi under study and which were actively involved in partnerships, most of them are not recognized and have not received any accreditation. In regard to foreign institutions, though she mentions that most institutions are not found on important ranking lists, she assumes that they are of good quality, which is doubtful as there is no reason why a good quality foreign institution would collaborate with an unrecognized, unaccredited institution of a developing country.

The growth of the private sector also shows a skewed pattern within a field such as engineering. Private engineering institutes mostly offer courses on computer science, information technology, communication, and electrical and electronics to cater to the need of the new urban economy. They do not offer courses which do not have an immediate market. Not only that, almost all of these private institutions were established in urban areas and in the wealthy areas of the provinces. This is obvious for them as they are investing for profit. However, this resulted in serious decline and devaluation of basic knowledge and accessibility for poorer sections of the population.

An official report by the Government of India described the vast majority of colleges as merely serving the needs of “academic squatters.” And several official reports note the adverse impact on quality during the high growth phase of private higher education institutions (Carnoy and Dossani 2012).

If we look at the statistics of the background of the students, India’s present success in engineering and information technology, scientific research and medicine should be attributed to its publicly funded higher education system, not to the newly mushroomed private colleges and universities. Among the 183 private universities, only nine feature in the top 50 by India Today Higher Education Survey. All these nine private institutions have been in existence for many years (India Today 2013).

With the new policies of commodification of higher education, India's global rank in publications output has slipped from 8th in 1985 to 14th in 2006 (Kapur 2008). However, in science and technology, India's global publication rank was 10th in 1996 and has slightly improved to 9th position in 2010, but its global citation impact rank is 18th, which is lower than that of Brazil (16th) (Gupta 2012).

Conclusion

Formal modern education in India gained ground only in the 19th and the early part of the last century, mainly through non-governmental effort. It is therefore not surprising that private institutions comprised a considerable part of the sector at the turn of independence, more so in higher education. The non-governmental providers of higher education (mostly in the form of charitable trusts and societies) were arguably impelled by a variety of motives including religious teaching, but principally these were non-pecuniary in nature (Srivastava 2008; Sharma 2014).

In a country like India with its population of 1.25 billion and with an emerging, aspiring, and the world's largest youth force, the needs of the hour are the inclusion, expansion, and excellence of education. But, the future scenario in the education sector is highly uncertain. In a FICCI background paper *The Higher Education Summit: Road Map for the Future* (Bhushan 2004), Professor Sudhanshu Bhushan points out:

Earlier all over the world, education, especially higher education, was available only to a privileged few. In the context of a knowledge society and the goals of sustainable development, higher education needs to percolate to the masses, not only just in terms of quantity, but also quality. In the last few years, this shift has been slowly taking place. Still, glaring deficiencies remain in the access to higher education, overall development of the student, sensitivity to human needs and equality in our society. [Bhushan 2004:4]

It is not that all the court rulings, recommendations of the committees, and political parties in India blatantly support privatization of higher education. There are mixed rulings, recommendations in

favour of privatization. Among the political parties, the Left, because of their ideological position, are always against the privatization of anything, be it a public sector enterprise or educational institution. However, the Left is a minority in Indian politics, though at times they managed to exert qualitative pressure on various issues. There are other political parties in India, the rightist and the centrist, who are more powerful and supporters of liberalization. Some of them are also confused on issues like whether the government should subsidize rich students considering the huge cost of higher public education, and some of them are not fully aware of the complex rules and regulations of GATS.

Withdrawing fully from GATS and discarding the Foreign Education Institution Bill could save higher education from direct foreign intervention, but as discussed previously, India needs to increase its public funding significantly to stop the mushrooming of unqualified private institutions, which not only are unable to produce adept workers, but also will increase inequality further as only the children of rich parents can afford to go to these private institutions.

The Kothari Commission (1964-66) recommended that government should spend six percent of its GDP on education. However, even 45 years after this recommendation, India spends only around 3.9 percent of its GDP on education. Eighty percent of this cost is borne by provincial governments. Out of this meager 3.9 percent, the portion of higher education expenditure is only around 0.6 percent. The Committee of the Central Advisory Board of Education recommended that a quarter of the six percent, i.e., 1.5 percent, be allocated to higher education (Tilak 2013). So, it is beyond any argument that public funding, particularly the central government's allocation has to be increased as nearly 80 percent of the public expenditure on education is borne by the provincial governments.

Recently (2011-12 budget) India has increased its public funding in education as well as in higher education. The increase is significant in regard to the percentages: 24 percent overall increase in education which includes 34 percent increase in higher education. However, there are also some other lacunae in public funding, which need to be addressed.

Almost two thirds of this amount will go to UGC and Centers for Excellence including IITs (Indian Institute of Technology) NITs (National Institute of Technologies), and IIMs (Indian Institute of Management) (FICCI 2011; Mishra 2011). The UGC mainly provides grants for central universities and the public colleges in Delhi leaving responsibilities of other public universities and colleges with the provincial governments as education is on the concurrent list. Most of the provincial governments with their meager resources find it hard to allot adequate funds for education. Another aspect is nepotism. If an institution has a strong network in the government, it is likely to receive more funding. Annual funding is considered on the amount of funding an institution has received in the previous year (Agarwal 2006). The system of student scholarship has its own shortcomings too. At present, funding for scholarship is institution- based. Instead, student- based funding is much more egalitarian as more poor students can avail those scholarships irrespective of their institutional affiliations.

It is already seen that privatization failed to bring quality to higher education in India. Allowing foreign investment in education is also detrimental to national identity. So, a middle ground could be worked out: increasing fees for the affluent students and more scholarship for poor students could be an option. The first part of this option was already in practice through self-financed professional courses in many public universities in India, but poor students do not have access to those courses. So, it is very important to introduce the second part of this option. Last but not the least, along with the government, banks should come forward to ease the student loan system and should sometimes act as a guarantor for poor students, as less than five percent of students are availing themselves of an education loan at present. And finally, as always good governance and strict regulations are needed to implement those policies.

Appendix

Key Supreme Court Judgments on Fees in Private Institutions:

Mohini Jain v. State of Karnataka (1992): Fees charged in private institutions in excess of tuition fees in government colleges is deemed to be capitation fees.

Unnikrishnan, J. P. v. State of Andhra Pradesh (1993): Banned capitation fees and devised a scheme, which allotted 50 per cent seats in an unaided professional institution as free seats (fees same as a government institution) and 50 per cent as payment seats (fees higher than 'free seats' but have to be approved by a state-level committee).

T. M. A. Pai Foundation v. State of Karnataka (2002): The decision regarding the fee to be charged must be left to the private institution that does not depend on any funds from the government. The object of an institution should not be to make profit. However, it can generate a reasonable revenue surplus, for the purpose of development of education and expansion of the institution.

Islamic Academy v. State of Karnataka (2003): A committee in each state, headed by a retired High Court judge, should approve the fee structure, which shall be binding for three years.

P. A. Inamdar v. State of Maharashtra (2005): The committees regulating admission and fee structure shall continue to exist, but only as a temporary measure until the central or state governments are able to devise a suitable mechanism for such regulation.

(Source: V. Sharma 2007; Madhaban et al. 2013)

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