

**EXPANDING HIGHER EDUCATION GLOBALLY: THE ROLE OF FOREIGN DIRECT  
INVESTMENT**

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**Abstract**

The decision of the government of India to allow foreign direct investment in higher education is based on a consultation paper prepared by the commerce ministry, which is marked by arguments, perverse logic and forced conclusions. FDI in any field does not have an attached objective of fulfilling social agenda of the welfare state. It is guided by profit and market. This would result in commoditization of education. As per past most foreign institutes invest in technical courses which market needs rather than in quality education and research which is important for creating and developing human resource. There is a shortage of funds in higher education sector. Here are not many ways in which this investment in this sector can be increased in this sector domestically. Since a large number of students go abroad for their higher education, it is sensible to allow foreign universities to set up their campuses here, in India. This would help in arresting the outflow of monetary and human capital. Further, foreign higher educational institutes would create competition with the local institutes making them internationally competitive this article examines the issues and financial compulsions, presented in the consultation paper.

**Key words:** *FDI, higher education, globalization, WTO, Financial, Indian.*

**INTRODUCTION**

Higher education is assuming an upward significance for developing countries, especially countries including India which is experiencing service-led growth. Higher education is all about generating knowledge, encouraging critical thinking and imparting skills relevant to this society and determined by its needs. Education general and higher education in particular, is a highly nation-specific activity, determined by national culture and priorities. The growth of India's higher educational institutions has indeed been outstandingly rapid. The numbers of universities have doubled since 1990-91, and enrolment has become more than doubled. But this has been at the expense of quality, increased rigidity in course design, poor absorption of knowledge, and growing lack of access to laboratory facilities, journals and opportunities for field work, etc. The average Indian graduate compares poorly with her/his counterpart in most countries, including many developing ones. All this calls for reform, administrative changes, more funding, greater flexibility, quality improvement, etc.

In 2007, the Indian Government announced a nine-fold increase in higher education spending over

the next five years. While this came as good news to a sector characterized by limited supply and uneven quality, four years later it is apparent that a more intensive effort is required. For India to maintain its economic growth in a global marketplace fueled by the knowledge economy, it needs to nearly double its number of students in higher education by 2012. Fifty-one percent of India's population is under the age of 25. Without proper access to education the country's demographic dividend could turn into a demographic disaster.

India is one of the most attractive education markets but historically the government has not encouraged foreign participation in this sector. It faces a massive challenge to provide education to young people, especially in remote locations. According to the National Knowledge Commission estimates, the country needs to build 1,500 universities within a period of five years to endow enough people with the skills to sustain rapid growth.

Given this state of higher education in India, could liberalization be the way out? The major concern regarding such liberalization is that it can lead to commercialization of higher education which may have an effect on a large section of society adversely. This Paper would try to look at the scope for FDI in higher education in India, assess the regulation of higher education in regard to its ramifications for FDI and make recommendations for change.

The globalization of higher education through Foreign Direct Investment (FDI) is a complex phenomenon that involves the international expansion of educational institutions and the flow of financial resources across borders. This trend has gained momentum in recent years and has several implications and considerations:

- 1. Cross-Border Expansion of Universities:** Some universities are establishing branch campuses or partnering with existing institutions in foreign countries. These ventures enable students to access quality education without physically relocating to the institution's home country.
- 2. Increased Access to International Education:** FDI in higher education can expand access to global education opportunities, especially in regions with limited educational resources. This can help address the demand for higher education worldwide.
- 3. Quality Enhancement:** The presence of reputable foreign universities can enhance the overall quality of education in host countries. Local institutions often benefit from knowledge exchange, better teaching practices, and access to research collaborations.
- 4. Diverse Learning Environments:** Students studying at international branch campuses or universities with FDI exposure gain exposure to diverse cultures, perspectives, and educational approaches, contributing to a more comprehensive learning experience.
- 5. Economic Benefits:** FDI in higher education can stimulate economic growth in host countries through job creation, infrastructure development, and increased revenue from tuition and associated services.

## **6. Challenges:**

**Quality Control:** Ensuring consistent quality standards across borders can be challenging. Maintaining the same level of quality as the parent institution may require rigorous oversight.

**Cultural Sensitivity:** Adapting educational content to local cultures and needs is crucial for success. Cultural insensitivity can lead to a lack of acceptance or success in the host country.

**Equity and Access:** The expansion of education through FDI can sometimes exacerbate inequalities, as tuition fees in international institutions can be higher than local alternatives.

**Regulatory Challenges:** Navigating the regulatory frameworks of different countries can be complex. Complying with host country laws and regulations is essential but may be challenging.

**7. Ethical Concerns:** There are concerns that the commercialization of education driven by FDI may prioritize profits over the educational well-being of students. This raises ethical questions about the motivations of educational institutions.

**8. Brain Drain:** In some cases, FDI in higher education can contribute to a "brain drain" where talented students and faculty are drawn away from their home countries to international institutions.

**9. Competition:** The presence of foreign institutions can lead to increased competition for local institutions, which may struggle to compete with better-funded and more established foreign universities.

## **DISCUSSIONSTRUCTURE OF HIGHER EDUCATION**

Knowledge is the driving force in the hastily changing globalized economy and society. Quantity and quality of highly specialized human resources establish their competence in the global market. It is now well recognized that the growth of the global economy has amplified opportunities for those countries with superior levels of education and vice versa. India is no exception to this global observable fact. As part of globalization, the economic reform packages were introduced in India in the beginning of 1991. These reform packages have imposed a heavy compression on the public budgets on education sector in general and higher education in particular.

India is the third largest higher education system in the system in the world (after China and the USA) in terms of enrolment. Unlike China or other Asian economic powerhouses, India "growth has not been led by manufacturing. Instead, the nation's pool of skilled workers has allowed India to go quickly up the economic value chain in several knowledge-based industries. According to a report by the New Delhi-based think tank ICRIER, India is home to the world "biggest pool of scientific and knowledge workers, and produces 400,000 engineers each year while the United States produces 60,000. According to the same report, in August 2006 India filed 1,312 patent applications, second only to the United States. Also, in terms of the number of institutions, India is the largest higher education system in the world with 17973 institutions (348 universities and 17625 colleges). This means that the average number of students per educational institution in India is

worse than that in the US and China. In US and UK, percentage of enrolment in higher education is 82.4 and 60.1 respectively. In India, regardless of recent increment due to private players, current enrolment is merely 12 %. Even South East Asian countries have higher enrolment rate like 31% in Philippines, 27% in Malaysia, 19% in Thailand and 13% in China. To maintain the positive trends and an economic growth rate of 7 percent, India's higher education gross enrollment ratio (GER) would need to boost from 12 to 20 percent by 2014.

According to United Nations Educational, Scientific and Cultural Organization (UNESCO), public spending on higher education in India has one of the lowest public expenditure on higher education per student at US 406 dollars, which compares adversely with Malaysia (US 11,790 dollars), China (2728 dollars), Brazil (3986 dollars), Indonesia (666 dollars) and the Philippines (625 dollars). This expenditure in the USA is 9629 dollars, in the UK 8502 dollars and in Japan 4830 dollars. India needs to deal with issues of both quantity and quality.

Every year nearly 0.4 million Indians go abroad for higher studies spending approximately \$ 12bn. This leads to not only loss of foreign exchange, but also 'Brain Drain', as most of these rarely comes back to India subsequent to completing their courses. The primary reason for a large number of students seeking professional education abroad is lack of capacity in Indian Institution. There is no doubt that the state of affairs in public universities in India is not so good. Also, with increasing enrollment in higher education, it is not probable for the government to provide higher education on its own. But, the private institutions are themselves ailing. Many don't have experience and many are trying to just grow money without quality.

### **Regulatory bodies and government initiatives for providing Higher education**

At present India is allowing 100% FDI in higher education through automatic sector. But, still no university has established a campus here, due to a large no. of guidelines and regulation. Also, many rules are vague. Indian government is trying to pass a bill, The Foreign Educational institutions Bill, in the parliament to directly allow 100% FDI in higher education. Right now 106 institutions are running programmes in India with collaboration with foreign universities. But, only 2 out of 106 are approved by AICTE (All India Council for Technical Education).

Indian government does not allow foreign universities to honor any separate degree. It could only provide dual degree with collaboration with local institutions. Currently, many degrees given by these foreign universities are not even recognized in their own countries.

The main governing body at the tertiary level is the University Grants Commission (India), which enforces its standards, advises the government, and helps coordinate between the centre and the state. As of 2009, India had 20 central universities, 215 state universities, 100 deemed universities, 5 institutions established and functioning under the State Act, and 13 institutes which are of national importance. Most of these institutions are public funded. Some of these institutions have

been globally applauded. However, India has failed to produce world class universities like Harvard, Stanford, Oxford, Cambridge or the Massachusetts Institute of Technology (MIT). If The Foreign Educational Institutional Bill will be passed, it will not only permit foreign universities to set-up campuses and award degrees in India, but simultaneously facilitate Indian government regulation of their operations.

The purpose of the bill is to regulate entry, operation and quality of education by the foreign universities. The bill will allow them to earn the status of Deemed University, which in turn will make them come under the domain of University grant commission (UGC). The foreign universities then have to invest at least 51% of the total expenditure for such establishments.

### **FEATURES OF THE FOREIGN EDUCATIONAL INSTITUTIONS BILL**

No foreign institution can provide degree to Indian student unless such institution is confirmed as Foreign Educational Provider by Indian Government At least twenty years of establishment in its own country Have to maintain a fund of at least 500 million rupees Quality of education, curriculum, method of imparting and the faculty employed will be in accordance to guidelines of UGC At max 70% of the income raised from the fund can be utilized in the development of institution in India and rest should be added to the fund. No part could be used in any other purpose other than growth and development of the institution established by it in India Institution has to publish prospectus writing clearly about fee structure, refund norms and amount, number of seats, condition of eligibility with min and max age, detail of faculty, process of admission, min pay payable to each category of teachers and staff, infrastructure and other facilities, syllabus, rules and regulations, etc. at least sixty day prior to date of commencement of admission In case of violation of any guidelines a penalty of min 10 million and max 50 million rupees along with tuition fees should be refunded to the student Any foreign institution not confirmed by Indian government as Foreign Education Provider which is awarding any certificate to Indian students should submit a report regarding course to the commission.

### **GATS AND HIGHER EDUCATION:**

Beyond the establishment of foreign universities, the bill and the government must deal with the relationship between foreign direct investment and education. In 1995, the Indian government signed the WTO treaty the General Agreement on Trade in Services (GATS). The agreement aimed to give the international community access to the Indian services sector by deregulating markets. According to GATS, the private education sector qualifies as a tradable service, and therefore the Indian government is required to remove any barriers to the trade of that service.

India has received desires (for opening up of services) from several countries (Australia, Brazil, Japan, New Zealand, Norway, Singapore, USA) in education services in the new round of Service trade negotiations launched in January 2000 (GATS 2000 round), which mostly focus on higher

education, adult education, and other education services. All requests to India are for full market access and national treatment commitments. India has not made any proposal in education services in the GATS 2000 round due to sensitive public good nature.

It's worth noting that India did not schedule education services either in the Uruguay Round or in its revised commitments under the ongoing Doha Round. Hence, India has no multilateral obligation under the WTO to open up higher education services to foreign participation. Whatever liberalization has occurred in this area, such as allowing 100% FDI on automatic route and permitting foreign participation through twinning, collaboration, franchising, and subsidiaries, has been autonomously driven. But it's unlikely that India will agree to such demands of liberalization in future.

The issue then is largely a domestic one. The impact of opening up higher education services is shaped not by the WTO but by domestic factors, including the domestic regulatory framework and the state of the domestic education system in terms of quantity, quality, costs, infrastructure and finances. In this context, evidence suggests that some of the concerns about opening up education services may not be so misplaced.

### **JUDICIAL PRONOUNCEMENTS**

The Courts have played a proactive role in shaping the private higher education in the country. Since early nineties till date, the Supreme Court has been giving inconsistent and puzzling judgments shifting its position from suspecting private sector to the acceptance of the present reality. The historic judgment of the Supreme Court in *St. Stephens College v. University of Delhi* in 1992 ruled that "the educational institutions are not business houses and they do not generate wealth." In another historic judgment in *Mohini Jain v. State of Karnataka* in 1992, the Supreme Court ruled the exorbitant fee demanded was in reality a capitation fee with a different tag.

These judgments were followed by another landmark judgment in 1993, in *J. P. Unnikrishnan v. State of Andhra Pradesh*, which revisited the right of the State to interfere in the admission policy and fee structure of private professional institutions. It practically banned high fee charging private colleges, popularly known as capitation fee colleges. Thereafter, several other judgments came.

The loot of the students continued unabated. In 2002, a majority of an eleven-judge Constitution Bench of the Supreme Court in *TMA Pai Foundation v. State of Karnataka*, while upholding the principle that there should not be capitation fee or profiteering, argued that "reasonable surplus to meet the cost of expansion and augmentation of facilities, does not however, amount to profiteering." The seven-judge bench of the Supreme Court delivered its verdict in *P A Ingmar*

&Anr. v. State of Maharashtra case on 12 August 2005. It held that states have no power to carve out for themselves seats in the unaided private professional educational institutions; nor can they compel them to implement the state's policy on reservation. It further held that every institution is free to devise its own fee structure; but profiteering and capitation fee are prohibited. However, court allowed up to a maximum of 15 per cent of the seats for NRIs. In a situation where the State is increasingly withdrawing itself from the field of expanding the existing facilities in higher education it is only natural that commercialization of higher education would follow for those who can afford it.

Therefore, it is worth mentioning here that 5,398 new colleges were started in eleven years from 1990-91 to 2001-02. A phenomenal number of new colleges, i.e. 5,719 were started in just two years from 2001-02 to 2003-04. Thus in thirteen years 11,117 new colleges were started. The regulation of fee charged by foreign universities is advocated on the grounds of Affordability. However, competition itself can ensure that fees remain affordable while promoting quality of higher education.

### **NEED FOR FOREIGN INVESTMENT**

If we look at the problem India is facing in expansion of higher education, one may say that FDI are being acceptable just because we don't have sufficient money to spend on this area. But, the Problems are others too which FDI will focus.

1. FDI in higher education will solve the problem of enrollment rate as we are in a situation of Less supply high demand.
2. Indian money and talent going abroad will come in check.
3. Infrastructure will improve.
4. Some new methods and technology will be used in teaching.
5. It might happen that India may develop one of its own world class universities.
6. India needs to fill the technological lag as fast as it can to compete with China.
7. An increase in facilities, both in terms of physical magnitude and geographical spread, for Inculcation of vocational skills backed by an increase in the general quality of higher Education.
8. The resulting competition with local universities would also induce us to become internationally competitive through quality improvements brought about by changes in Curricula and other responses to an evolving market.
9. Further, FDI in education would generate employment.
10. Allowing FDI in education might lead to export of Indian education abroad in which there Are large potentials.

11. There will be better scope for research as foreign universities have different methodology to Run and generate revenues.

12. India may move towards practical study based learning rather than rote learning.

13. Existing institutions need to be rebranded to overcome their poor image.

14. Offered as a two-year associate degree with a strong skills focus and easy mobility into the Mainstream higher education system, short-cycle higher education could be a less expensive and more relevant alternative to private professional education.

### **NEED FOR ADDRESSING POLICY CONSTRAINTS**

A brief formulation of one set of policies for India's higher education could include the Following components:

- Provide public funding only for those higher education activities such as R&D that have public goods characteristics and which would not be privately funded to the socially optimal degree.
- Eliminate all public support for those higher education activities the result of which has sufficient private returns to envelop the costs.
  - Ensure equality of opportunity and access to higher education in reply to expressed needs and Demands of the population.
- The range of disciplines must match the range of skills needed and changing opportunities Available in a dynamic economy. A competitive market-liberal system must be allowed to Operate instead of central planning.

### **Experience of other countries in respect of FDI in higher education**

India can use profit as a channel to raise the quality of education as done by other countries. We could take example of Singapore in the matter of framing the policy for foreign investment in scientific research. Singapore allows only world-class institutions to enter, and that only when they bring their own money. For instance MIT, a top technical institution in the US, has collaboration with the National University of Singapore. Singapore has now effectively achieved two goals, one to make itself an educational destination for neighbors in Asia who can now go to world-class institutions in Singapore rather than go to Australia or the US; and two, to bring in top-quality programs and skills to upgrade their own research.

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

- 1) Foreign institutions must partner with Chinese institutions.
- 2) Partnerships must not seek profit as their objective.
- 3) No less than half the members of the governing body of the institution must be Chinese citizens.
- 4) The post of president or the equivalent must be held by a Chinese citizen residing in China.
- 5) The basic language of instruction should be Chinese



6) Tuition fees may not be raised without approval.

There is no provision for online and distance learning. In Malaysia also, foreign institutions can enter only by invitation from the Ministry of Education. Such an institution has to establish a Malaysian company with majority Malaysian ownership and has to be registered with the government. Permission for each course is required. Courses should be accredited and approved in the home country and recognized by an appropriate professional association in Malaysia. Because of its Bhoomiputra policy, its government does not encourage the Chinese and other non-Malays to have the same kind of educational opportunities as Malays. So they have opened up the field to enable the private sector and also foreign institutions to operate in their country mainly to meet the needs of non-Malay ethnic groups.

Even in a country like Indonesia, any programme [foreign] universities offer should be accredited [by the governments] both in their own countries and the country in which they propose to offer their programme.

Another new concept that has gained popularity is based on acquisitions. Baltimore based Sylvan Learning Systems Inc. has through acquisitions, built up a network of eight universities serving 101,000 students in nine countries in Latin America, Europe and India. In Chile, it has had spectacular success where it has quadrupled enrolment to 20,000 by opening several campuses.

Dubai has set up a „Knowledge Village“ after 11 September 2001 for wealthy Gulf students no longer interested in heading to the US. It has already attracted 15 foreign universities and business schools to set up campuses. But to quote, India is one country where anybody can come and advertise all kinds of degrees.

Fact, there have been plenty of offers from what the Americans call the "diploma and degree mills". In India there is no authority or no legal machinery that requires these people to register or get the permission of someone before they enroll students. There is no protection for students. Authorities must study the system of regulation and accreditation of Educational institutions in foreign countries. Our own accreditation system and laws for foreign institutions must be developed taking into account the treatment given to them in their respective countries. So the need of the hour is structural reforms within the Indian education system. Only then can we have a proper, strong and skillful workforce. A workforce that could transform our country into a superpower

#### **ARGUMENTS FOR PROMOTING FDI**

1. Increased Investment in higher education will lead to
  - a. Increased Institutions
  - b. Enhanced Access to the best universities of the world
  - c. Opportunities of International Qualification
  - d. Opportunity to come into contact with the top professors of the world.

- e. World class labs and libraries.
- f. Technological Innovation
2. Competition leading to Quality Improvements
3. Curriculum Innovation
4. Research & Development
5. Resource Use Efficiency
  - a. International Exposure
  - b. Possibility of Indian students getting jobs in multinational companies.
6. Import Substitutions
  - a. Emigration of Students would be checked
  - b. Import of students from neighboring countries could be promoted

### **ARGUMENTS AGAINST PROMOTING FDI**

1. Profit and Market Considerations would dominate High demand courses
2. Irrespective of the National Need Mickey Mouse Courses would be introduced
3. Cosmetic Curriculum Innovation with aggressive Marketing will mislead students
4. Vulgar use of Marketing Communication for 2nd or 3rd tier institutions
5. Create false impression of quality by increasing convenience and flexibility for students
6. Degrees awarded by foreign institutions by partnering with unapproved domestic institutions will not be recognized in India
7. False marketing of foreign programmers wherein institutions claim to have resources that they don't really possess or give employment guarantees when there's no international equivalence of degrees
8. Students in twinning programmers have not been able to obtain visas to study abroad at the foreign partner's campus
9. Many of the programmers offered by these institutions are not accredited in their own countries.

### **CONCLUSIONS**

The role of Foreign Direct Investment (FDI) in the expansion of higher education globally is undeniable. FDI has emerged as a critical driver in bridging the gap between the growing demand for quality education and the limited resources available in many countries. Through partnerships, infrastructure development, and the infusion of capital, FDI has facilitated the establishment of world-class institutions in regions that were previously underserved.

Moreover, FDI in higher education has not only increased access but has also fostered international collaboration, knowledge exchange, and cultural diversity within the academic landscape. These

interactions have enriched the educational experience for both domestic and international students, preparing them for a globally interconnected world.

However, it's crucial to acknowledge the challenges and potential pitfalls associated with FDI in higher education, such as concerns about academic autonomy, quality assurance, and the risk of commercialization. Therefore, a balanced approach is essential, with governments, institutions, and investors working together to ensure that the expansion of higher education is carried out with integrity and a commitment to academic excellence.

In the future, the success of FDI in higher education will depend on continued collaboration, regulatory frameworks that protect academic values, and a focus on sustainable development. By harnessing the potential of FDI while safeguarding the core principles of higher education, we can aspire to a world where quality education is accessible to all, regardless of geographical or economic barriers.

Finally, a point often lost on critics is that India also has gone on the offensive in education services. A growing number of Indian educational institutions are commencing to export to other markets. So, globalization of education services should also be seen as an opportunity. In short, a pro-active rather than defensive approach is required to benefit from the liberalization of higher education services.

## **RECOMMENDATIONS AND SUGGESTIONS**

The recommendations and suggestions for the Government can be:

- a. Should form an apex body (with public and private participation) to exercise control over the institutions entering in India
- b. Should monitor the quality of the programmes
- c. Verify the credentials of the investor-institutions
- d. Should ensure that what comes in is real money
- e. That the programmes offered are in accordance with the priorities in this country and the national policy in terms of equity, affordability and access.
- f. Revenue generated by foreign institutions should be invested in primary education so that the base will also get stronger
- g. Must mandate that every educational institution operating in India, whether Indian or foreign, public or private, to Publish an annual report with details of the infrastructure available, the staff, the fees charged, the number of students, the results of the examinations, the amount of funds available to the institution and the sources of funding, affiliation to any foreign bodies with details of those bodies etc.
- h. The Government formed apex body should not delay in their decision-making process
- i. The government needs to introduce a concept of 'education credit', an amount equal to the

average cost incurred in teaching a child in the privately run Govt. schools. This

Education credit should be made available to every child. The child can either avail of the education by exchanging this credit in the Govt. owned and private operated college, or cash this portion against the fees and other costs incurred by them in a completely private institution for higher education.

j. Alternate education must be promoted

We also need to be aware of social justice and equal opportunity when it comes to education because the right to justice, the right to equality and the right to uniform education will happen now or never. Yes, the going will be sturdy but then without pressure, without opportunities, we will never endeavor towards enthusiasm or success let alone our goals.

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