

FDI in Education in India

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Policy on Private Investment in Higher Education

NPE, 1986: The commercialisation of technical and professional education will be curbed. private and voluntary effort in conformity with accepted norms and goals.

10th Plan: increased private participation in the management of colleges and deemed to be universities. Strategy of liberalisation of higher education system would be adopted.

NKC on Higher Education, 2006: public-private partnerships where the government provides the land and the private sector provides the finances.

Approach to the 11th Five Year Plan” 2006: healthy development of quality private sector education, to be allowed to charge reasonable fees- a cautious view for inclusive development which is the philosophy of 11th plan

Judicial Pronouncements

- **Miss Mohini Jain versus State of Karnatka and Others (1992):** denial of educational opportunities by charging capitation fees amounts to the denial of the fundamental rights
- **J P Unnikrishnan (1993)** “Commercialization of education was not permissible and it was opposed to public policy and Indian tradition and the charging of capitation fee was illegal”
- **T M A Pai (11- member bench, 2002):**“..... the government can provide regulations that will ensure excellence while forbidding the charging of capitation fee and profiteering by the institution..... There can, however, be reasonable revenue surplus

Contending Views

- **contradiction between the policy and the plan.**
- **NPE (1986) notes the curbing of commercialisation**
- **10th plan favours liberalization.**
- **Ambiguity is further compounded when public private partnership is advocated without clarifying the management, financing and other issues such as admission, fees, reservation, scholarship on which the basis of partnership can be built.**
- Profit making is strictly not allowed beyond cost recovery and reasonable surplus in terms of court judgements

Arguments for Promoting FDI

- Increased Investment in HE leading to
 - Increased Institutions
 - Enhanced Access
 - Opportunities of International Qualification
 - Improved Infrastructure
 - Technological Innovation
- Competition leading to
 - Quality Improvements
 - Curricular Innovation
 - Research & Development
 - Resource Use Efficiency
 - International Exposure
- Import Substitutions
 - Emigration of Students would be checked

Arguments Against

- Profit and Market Considerations would dominate
 - High demand courses
 - Fulfill the unmet desires
 - Irrespective of the National Need
 - Mickey Mouse Courses
 - Courses with Fancy nomenclature
 - Cosmetic Curricular Innovation
 - Aggressive Marketing
 - Vulgar use of Marketing Communication
 - Create false impression of quality
 - Convenience
 - Flexibility

Who are looking for Indian Destinations?

- Very few reputed government universities. For example - UK University established under royal charter - 40% of them are government funded. out of that 10% are looking for operation internationally. Again only 10% of that may be looking at FDI in foreign country.
- Very few reputed research universities
- Not even reputed private universities
- May be few universities and colleges and private institutions to market selected programmes
- Asymmetry of interests of foreign providers – from pure collaborative teaching and research (UKEIRI) for advancement of knowledge to commercial interests

Is India an Attractive Destination?

- The Market Size – high demand
- Stable real per capita public expenditure in secondary and falling real per capita public expenditure in higher education: supply constraint
- Our Mindset of quality means foreign degree without much distinction
- Our Vast Reservoir of Intellectual Resource
- Our Regulatory Mechanism is deterrent for high quality, promoting for inferior quality

Barriers

- Policy barrier - Profit making is not allowed beyond cost recovery and reasonable surplus.
- Foreign institution cannot form a trust or society under the Indian law, as this is the first step to buy a land to start an institution.
- If a trust is formed and looks for funding then institution has to go through FCRA. If institution wants to receive funds from international society then they have to clear lots of hurdles.
- Foreign universities can not confer a degree in India
- Restricted practices in credit transfer, double or joint degrees in Indian universities

Promoting FDI in Testing and Skill

- If India is looking for FDI or foreign partnership then it should look for testing and skill certificate and diploma programme – should it be allowed within private sector with limited public control?
- National Registry System (NRS) is required where foreign institutions get to register themselves that will be available to public.
- Credibility of courses specially its certification acceptability will really promote foreign investor. For example MCSE (Microsoft Certificate Software Engineer) certified person is eligible to apply any where in world because of worldwide acceptability.

FDI Policy and Enabling Regulation in Education

- Policy: If India wants FDI in education sector then it needs to have enabling policy – that welcomes FDI with a reasonable surplus but without commercialisation.
- Act: Foreign university bill (presently in draft form) needs to be passed to allow foreign university to confer a degree in India
- Regulatory Structure: As per the Act
- Institutional facilitation: As per the regulatory structure's mechanism to monitor quality, fair practices
- Structural facilitation: to establish trust to purchase land, permission to get international funding

Some Suggested Norms

(Prof. Furqan Qamar)

- Minimum Investment Norms
 - College/ Institute: \$ 02 to 10 Million
 - University: \$ 20 to 50 Million
- Equity Norms
 - At least 75% Equity in the Form of FDI
- Capital Adequacy Norms
 - At least 10 Times the Annual Operating Expenses
- Repatriation/ Reinvestment Norms
 - Repatriation Not Permitted under Existing Rules
- Revenue Diversification Norms
 - Ratio of Export to Import Earnings
- Dynamic Pricing Norms
 - Linked to Operating Expenses and Capital Investment

Some Suggested Norms

- Academic Diversification Norms
 - 2 Non-market courses for every High Demand Courses
- Equitable Access Norms
 - Scholarship/ Freeship to the extent of 20% Enrollment
- National Curricular Framework Norms
 - Entry Level Qualification
 - Course Content and Rigor
 - International Acceptability
- Financial Disclosure Norms
- Academic Disclosure Norms
- Common Regulatory Frameworks
 - National Treatment & Level Playing Field
- Ethical & Professional Standards Norms
 - Restrictions on Aggressive Marketing Communications