



Challenges and Concerns: Regulatory Reforms and opening of Foreign Higher Educational Institutions in India

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Abstract:

Foreign universities and higher educational institutions are presently not permitted to open their campuses in India, except in Gujarat International Finance Tec-City (GIFT). However, the Government of India (GOI) is set to open the door to these foreign higher educational institutions (FHEIs) to set up campuses in India, through a few regulatory initiatives. The first initiative towards this has been taken by the International Financial Services Centres Authority (IFSCA) by notifying a regulation on Setting up and Operation of International Branch Campuses and Offshore Education Centres Regulations, 2022. The second initiative was the announcement of University Grants Commission (Setting up and Operation of Campuses of Foreign Higher Educational Institutions in India) Regulations, 2023. Against this backdrop, the present article seeks to examine the various steps taken by the GOI to allow the entry of FHEIs and their potential impact on higher education sector in India.

Key Words: GIFT City, National Education Policy, Privatisation, Globalisation, Foreign Higher Educational Institutions (FHEIs), Neoliberal, Efficiency, Equity, Competition.

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I. Background on opening up the higher education sector in India

The process of globalization which transformed the international trade in the latter half of the 20th century, made a profound impact on internationalization of higher education. The General Agreement on Trade in Services (GATS), signed in 1995, further reinforced this process in the field of education (Nigavekar, 2001). Consequently, foreign direct investment (FDI) upto 100 percent in education has been allowed in India under the automatic route since February 2000, yet the legal provisions in India does not permit foreign educational institutions to award degrees in India. Thus, no offshore campus or branch of any foreign university has been established in India yet. However, there are several foreign universities and education service providers are operating in India through twinning or joint degree programmes. In order to facilitate the entry of FHEIs, the GOI had introduced the Foreign Educational Institutions (Regulations of Entry and Operations) Bill, 2010 in the parliament, which proposed to facilitate globally renowned institutes to participate in India's higher education sector. However, that bill eventually lapsed in 2016 without seeing the light of the day.

Subsequently, GOI came out with the National Education Policy (NEP) 2020 which paved the way for transformational reforms in both school and higher education sectors. One of the important reforms envisioned in NEP 2020 is to make India a global study destination providing premium education at affordable costs. In this regard, NEP 2020 *inter alia* states that '... selected universities e.g., those from among the top 100 universities in the world will be facilitated to operate in India. A legislative framework facilitating such entry will be put in place, and such universities will be given special dispensation regarding regulatory, governance, and content norms on par with other autonomous institutions of India.'

In accordance with the objective of NEP 2020, the GOI recently undertook two major initiatives to facilitate entry of FHEIs in India. In its first initiative, the Union Finance Minister announced in the annual budget speech of 2022-23 that foreign universities will be allowed in the GIFT City to offer courses in science, technology, engineering, mathematics, financial management, and fintech and these institutions will be free from the domestic regulations. Subsequently, the GOI issued a notification under the International Financial Services Centres Authority Act, 2019 (IFSCA Act) to classify the aforementioned courses offered by foreign universities or foreign institutions in GIFT City as a 'financial service'. Thus, the GOI enabled FHEIs to setup

international branch campuses/ offshore education centres (OECs) in GIFT City for offering the aforementioned courses. In order to facilitate this process, IFSCA has issued a regulation on ‘Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022’ which came into force on 12.10.2022. It is important to mention that GIFT city is a Special Economic Zone (SEZ), therefore, domestic rules and regulations of UGC, All-India Council for Technical Education, etc will not be applicable to branches/ campuses of FHEIs in this city. The media reports mentioned that Australia’s Deakin University has establish an international branch campus at GIFT City in January 2024 and will commence offering academic programs from July 2024.

As an additional initiative, UGC notified ‘University Grants Commission (Setting up and Operation of Campuses of Foreign Higher Educational Institutions in India) Regulations, 2023’ vide gadget notification dated 07.11.2023. As per this regulation, FHEIs seeking to set up campuses in India have to fulfil the following two criteria:

- a) In case of a foreign university, it should be within the top 500 of overall/subject-wise global rankings;
- b) In the case of a foreign educational institution, it should be a reputed institution in its home country.

Thus, as per the UGC Regulation, only those universities will be allowed to set up a campus in India which have secured a position within top 500 universities. The position secured could either be overall or subject wise global ranking. It is worth noting that NEP 2020 policy document provides only for top 100 universities around the world to operate in India. However, the aforesaid regulation makes the eligibility criterion is much wider than the original intent and hence makes a deviation from the parent policy document.

The FHEIs fulfilling the aforementioned eligibility criteria shall apply online to the UGC with non-refundable processing fees. The regulation provides that a committee constituted by the UGC will assess each application on merits, as specified in the regulation, and make recommendations thereof. The abovementioned UGC’s regulation requires that qualifications/degrees awarded to students in the Indian campus will be recognised and treated same as to the corresponding qualifications/ degrees awarded in the home jurisdictions of the FHEIs. These foreign institutions will also be allowed to repatriate their earnings under the Foreign Exchange Management Act, 1999.

The applicability of the UGC Regulations seeks to allow the entry of foreign universities as well as other types of educational institutions, such as non-degree and diploma granting institutions. As per the regulation, it appears that FHEIs will be given certain relaxations in setting up their branches compared to domestic institutions. For example, FHEIs will have autonomy in devising the admission procedure, fee structure and recruitment of faculty. Moreover, the above regulation does not specify suitable infrastructure requirements to build the campus. For example, there is no minimum square footage requirement, which is strictly followed in case of setting of domestic educational institutions. This will give the FHEIs flexibility in operating the infrastructure as per their requirement.

This transition in higher education system will give rise to a new segment of higher educational institutions that will operate under regulations distinct from those enforced by the UGC. Admission criteria, fee structures as well as appointment of teachers will be set by the respective foreign institutions, without any reservation policies applying to Scheduled Castes, Scheduled Tribes, Other Backward Classes, or Economically Weaker Sections.

Status of Access to Higher Education in India

Before assessing the aforementioned regulatory initiatives to open higher education sector in India, it is important to briefly understand the status of access to higher education in India. As education is considered as most important source of social and economic development of a person, ensuring equality of access in provisioning of education should be the fundamental principle of a democratic and socially just country. Though higher education in India has experienced manifold increase in its institutional capacity and enrolment since independence, equitable access to higher education has remained a major challenge (Sinha & Srivastava, 2008). Access to higher education depends on various socioeconomic factors. For instance, in India, the most important factors to determine whether students receive higher education are caste/ social group and income level, followed by location, with a very small contribution by gender (Borooah,2017). Other studies find that accessibility of higher education determined by place of residence (rural or urban), gender and ethnic or linguistic status, apart from other individual factors (World Bank, 2014).

As India is striving to compete in globalized world, it is necessary to attain a sophisticated knowledge-based economy which in turn needs an indiscriminatory, inclusive and broad-based higher education system. The access to higher education is measured in terms of the Gross Enrolment Ratio (GER), which is calculated as the ratio of persons enrolled in higher education institutions to the total population of persons in the age group of 18 to 23 years. According to All India Survey on Higher Education (AISHE) report 2021-22, GER in Higher education in India is 28.4 %. In 2021-22, GER for male population was 28.3% and for female population 28.5%

at all India level. It is pertinent to mention that due to the significant increase, GER of female students became higher than that of male students for the first time in 2019-20. If we analyse the caste wise situation of access to higher education, GER for Scheduled Castes is 25.9 % and for Scheduled Tribes, it is 21.2.0 % as compared to the national GER of 28.4 %. This data indicates graded access to higher education which means fewer resources being available at the lower level as compared to the higher levels in the caste hierarchy. It is important to highlight that the aforesaid GER has been derived from census data of 2011. If it is computed based on the present population, the GER may change. Apart from social disparities, inequalities in access to higher education are also seen by economic class or income level. As per the data collected by National Sample Survey Organisation (NSSO), GER increases as we move up across monthly per capita consumption expenditure (MPCE) quintile. For instance, in 2014, the GER for the top quintile MPCE was seven times higher than that for the lowest MPCE quintile (0-20 per cent). Thus, the data indicates that economic status continues to have a significant bearing on the likelihood of gaining access to higher education. Moreover, segmentation of social groups is also observed in access to elite higher educational institutions and field of study which creates constraint in achieving equity in access to higher education (see Varghese, Sabharwal & Malish 2019).

Thus, being a developing nation, India faces numerous challenges, including a significant education deficit, disparities in access to education, and a substantial number of first-generation learners. Most likely the students from higher income group who may afford fee structure of foreign university will end up on these foreign education campuses.

Assessment of the regulatory initiatives to open higher education sector

Proponents of the abovementioned regulations claim that it would enable Indian students to access quality higher education in its own country at relatively much lower costs, not allowing the outflow of our foreign exchange reserves, creating competition with local institutions and enabling them to become internationally competitive and creating new institutions and infrastructure and generate employment (see Fox & Hundley, 2011; Ahmad, 2012; Wildavsky, 2012). These arguments are based on the provision of the UGC regulation which *inter alia* envisaged that top universities of the world will open their branch campuses in India and that the quality of these branch campuses will be at par with the quality of education imparted in their respective parent jurisdictions and thus, Indian students will stop migrating abroad for higher studies. These provisions appear to be based on false premises as they neglect the importance of geographical or locational advantages of institutions on which various parameters of quality, such as availability of faculty with excellent academic records, admission of good students, amenities for good quality of life, good career prospects, income opportunities, depends. This could be reason that most of the top ranked universities like Ivy League have not opened their international branch campuses in developing countries (see C-BERT's International Campus Listing, 2020).

In support of the aforesaid argument, the article has analysed the status of international branch campuses opened by top 25 universities world which has been summarized in table below:

Table 1: International Branch Campuses of World's top 25 Universities

Times Ranking	QS Ranking	University	Home Country	International Campus
1	4	University of Oxford	United Kingdom	
2	5	Harvard University	United States	Harvard Medical School Centre for Global Health Delivery, Dubai
3	2	University of Cambridge	United Kingdom	
3	3	Stanford University	United States	
5	1	Massachusetts Institute of Technology	United States	
6	6	California Institute of Technology	United States	
7	16	Princeton University	United States	
8	27	University of California, Berkeley*	United States	
9	18	Yale University	United States	
10	6	Imperial College London	United Kingdom	

11	22	Columbia University	United States	
11	9	ETH Zurich	Switzerland	
13	10	The University of Chicago	United States	University of Chicago Booth School of Business, Hong Kong & London
14	13	University of Pennsylvania	United States	
15	24	Johns Hopkins University*	United States	
16	14	Tsinghua University	China	
17	12	Peking University	China	
18	34	University of Toronto	Canada	
19	11	National University of Singapore	Singapore	
20	20	Cornell University	United States	Weill Cornell Medicine-Qatar
21	44	University of California, Los Angeles	United States	
22	8	UCL*	United Kingdom	
23	25	University of Michigan-Ann Arbor*	United States	
24	39	New York University	United States	New York University Sanghai and Abu Dhabi
25	50	Duke University	United States	
29	15	The University of Edinburgh	United Kingdom	
41	16	EPFL*	Switzerland	
36	19	Nanyang Technological University	Singapore	
31	21	The University of Hong Kong	Hong Kong, China	
39	23	The University of Tokyo	Japan	

Source: Prepared from C-BERT's International Campus Listing, 2020; Times Higher Education World University Rankings 2022; QS World University Rankings 2022.

*Universities having international academic campus in form of joint educational venture.

The above table has been prepared by the author based on the global overall ranking of universities for the year 2022 by two agencies i.e., QS World University Ranking and Times Higher Education Rankings. The list of International Campus opened by these universities have been assessed from C-BERT's International Campus Listing, 2020. The above table indicates that only 4 universities from top 25 universities have opened their branch campuses in foreign countries. It is also to be noted that only New York University has international campuses which provide education and research in multiple filed/ course. Other three universities have small campus in foreign jurisdiction which imparts education in single discipline. This data suggests that there is very rare chance of coming these world's top universities to India. If a few universities come, they may open only a specialised centre for professional courses which will cater only to few students.

The aforesaid argument can be further substantiated by the list of India Universities which have opened their international branch campuses in any foreign countries. The data available in public domain suggests that approx. 12 international branch campuses have been opened by 5 higher educational institutions or universities and none of them are from the list of top ranked institutions in India.

Table 2: International Branch Campuses opened by Indian Universities

S.No.	International Campus Name	Host Country
1	Amity University, Dubai	United Arab Emirates
2	Amity Institute of Higher Education, Mauritius	Mauritius

3	Amity University, Tashkent Campus	Uzbekistan
4	Amity University, Singapore	Singapore
5	Birla Institute of Technology and Science, Dubai	United Arab Emirates
6	Institute of Management Technology-Dubai	United Arab Emirates
7	Manipal College of Medical Sciences, Nepal	Nepal
8	Manipal University (Colombo)	Sri Lanka
9	Manipal University, Dubai	United Arab Emirates
10	SP Jain School of Global Management, Dubai	United Arab Emirates
11	S P Jain School of Global Management, Sydney	Australia
12	SP Jain School of Global Management, Singapore	Singapore

Source: C-BERT's International Campus Listing, 2020

The above argument makes it clear that top ranked universities generally do not have their international branch campuses. The few top ranked universities which have their international campuses are very small which may not any observable impact on the access to higher education in India. At the same time, relevant literatures in this field raises apprehension that FHEIs would obstruct the development of indigenous research within our higher education system, augment the tendency towards commercialization and reinforce neoliberal ideas in higher education sector. The literature also argues that globalisation is affecting the quality of education in the developing countries by proliferation of substandard overseas institutions. The course and content of syllabus in such international campuses are determined by the requirements of the Western business interests, not as per the need of the developing societies. Moreover, these reforms would promote a market-model of institutions, where the heads of institution will undertake the role of salesperson to promote their courses and programmes. (Tilak, 2009; Bok, 2009; Siddiqui, 2014).

Privatisation of higher education and the inclination to allow entry of FHEIs is leaning towards the greater role of private providers and dependence on market principles in reforming the higher education sector. All these measures are based on the assumption of perfect competition, which ensures the fulfilment of Pareto efficiency conditions entailing the efficient allocation of resources. However, the higher education sector does not fulfil this assumption as higher education is recognized as a public or quasi-public good and this sector is associated with problem of information asymmetry, externality, economy of scale as well (see Samuelson, 1954; Musgrave, 1959; Stiglitz, 1999). Due to these circumstances, markets fail to achieve economic efficiency which is called as market failure. Thus, any reform to facilitate the growth of FHEIs and other private institutions advocated on the grounds of increasing competition will lead to failure of higher education sector (Tilak, 2005). Even otherwise, it is assumed that privatisation of higher education and entry of FHEIs will promote competition in this sector, the concern of equitable distribution of resources remains unaddressed, given the inequality in initial distribution of resources in this sector.

In the neoliberal regime, which promotes privatisation and globalisation of higher education, education turns into commodity where student's preference determines the nature of the course/ education offered, which is different from the education that is undertaken in the interests of the people. In this situation, freedom to choose courses or institutions depends primarily on 'command over resources' wherein students with ample resources will secure access to any institution of their choice, while deserving students from subaltern classes may not get access due to lack of resources. If education is to be imparted in the interests of the people or as per social needs, it should be publicly financed. It does not mean that private higher educational institutions should be banned, but to emphasise the requirement for a predominantly public educational system, wherein the private educational institutions must fit, in a certain specified way (Patnaik, 2007). However, the aforesaid UGC Regulation 2023 provides various relaxations to FHEIs for setting up and operation of campuses in India. Further, it is argued that, under the globalisation process, higher educational institutions are transforming themselves from offering a liberal art core courses to an entrepreneurial periphery course which allows higher education institutions to compete for the monetary or human resources available globally to benefit their institutions (Mitchell & Nielsen, 2012). Explaining this situation, it can be stated that the market driven education system will harm the underprivileged students in the guise of consumer sovereignty, promote inequality in access to education, deny students' exposure to alternate perspectives and thus limits the democratic and inclusive development of a nation (Olssen, 1996).

II. Conclusion:

From the above discussion as well as literature in this filed suggests that generally low ranked institutions of developed nations open their international campuses in developing countries. Also, these institutions of advanced countries adopt dual standards in imparting education as they follow relatively strong monitoring measures and methods for education in their home countries and relatively lower monitoring measures and methods for imparting education in the developing countries. Moreover, as these FHEIs will be exempted from following various statutory provisions related to affirmative policy instruments, it also raises concern with respect to impact of foreign university programmes on equity and quality of higher education in India. Under these circumstances, the recent regulatory reforms to allow FHEIs to open their branches in India raise apprehension about their success, which has been touted in the NEP 2020 and aforementioned regulations.

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