

Education Sector Hotline

June 09, 2016

WHY IT'S IMPORTANT TO LIBERALIZE HIGHER EDUCATION IN INDIA

The onset of summer marks the advent of admission season in India. The long queue for admission forms, interview process and the endless wait to hear from colleges are all part and parcel of a student's life. Every student wants to have access to the best quality education possible. This is a good thing as a well-educated society not only contributes to an individual's economic progress and development but also inculcates virtues such as liberalism, freedom of thought, civic sense, positive attitude and a forward thinking outlook. Education thus contributes to the overall growth of the country. While it is important for a government to provide education, it is even more important to provide better standards and high quality of education. The question is, is the government doing enough to provide the quality of education the students really deserve? The education sector is currently abuzz with inking collaboration and preparing for new offerings to attract students. Knowing that Indian institutes do not have infrastructure and resource to provide quality education and employability skill set to a large percentage of the population, and foreign players with the capital required to set up world class higher education institutions will be able to hit the ground running, should the government not take advantage of timing and liberalize higher education? While the formulation of the new National Education Policy is underway, we need to instil a sense of urgency into the need for liberalizing higher education.

The Indian government has, over the years, introduced policies aimed at reforming the education sector. Initiatives such as 100% foreign direct investment, and the private sectors' efforts in the educational service space are some such notable developments. However, the fact of the matter remains that India has capacity constraints for offering quality higher education.

India has a few world class institutions like the IITs and IIMs. However, barring these few institutions, education provided by most institutions in India do not impart the skill sets required to make a person employable. Failure to find decent jobs even after completing education discourages one to study further. As a result, a very meagre percentage of students enrol for higher education in India. Students who want to study further go abroad in pursuit of quality education and better job opportunities. This pattern not only causes 'brain drain' and loss to the economy, but also highlights the urgent need for drastic reforms in the higher education sector. Further, even for the existing institutions, there is a requirement to upgrade their infrastructure and take such institutions to a different level. With the government giving impetus to skill development, one realistic way of addressing the 'education provides employment' situation is to set up world class institutes with the help of Indian as well as foreign universities.

India, with the largest percentage of young population in the world, who are blessed with brilliant minds and the spirit of entrepreneurship, is definitely a go-to market from a foreign education institutions' perspective. Opening up doors to foreign institutes would enable them to set up institutes, either themselves or in collaboration with Indian universities and colleges in a more liberal manner. This would help achieve the dual objectives of improving the quality of education and teaching methodologies in the Indian institutes, simultaneously benefitting a large chunk of the student population in India. Presence of a large number of world class institutes would help in India becoming an 'education hub'. Thus, instead of students going abroad to study, it would result in in flow of students into India. Opening up the sector to foreign institutions could also result in significant amount of foreign direct investment coming in India, from institutes, investors as well as the students, thereby benefitting the exchequer. Thus, liberalising the norms for entry of foreign institutes in India presents a win-win situation for all and is definitely the need of the hour.

Unfortunately, the higher education sector in India is plagued with overregulation and there are several regulatory impediment to achieve liberalization.

At present, a foreign institute cannot set up a campus in India. Institutes desiring to operate in India need to join hands with a local education provider for the purpose of offering courses in India. Such arrangements are referred to as 'collaboration' or 'twining arrangements', where the programmes are jointly offered by foreign and Indian institute. These courses are regulated by regulators such as the University Grant Commission (UGC) and All India Council for Technical Education (AICTE), depending on the nature of programme. The procedure for obtaining permissions / approvals from regulators is usually time consuming and cumbersome and thus presents its own set of challenges. Over regulation and interference by regulators also acts as a deterrent. Further, from a foreign institutes' perspective, there are some inherent restrictions and reservations to such arrangements mainly because of the requirement that a foreign institute needs to partner with an Indian institute, which may not be part of their strategy.

The regulatory roadblocks have forced foreign institutes to look at alternate models, such as offering programmes through e-learning models, which are gaining popularity amongst students in India. Such courses provides access to good quality education in a more affordable manner. However, these programmes are seldom degrees courses. Further, they do not offer the satisfaction of also learning in person, through a class room model.

The solution for resolving all these issues lies in granting permission to foreign educational institutions to establish

Research Papers

Handbook on New Labour Codes

April 29, 2024

Compendium of Research Papers

April 11, 2024

Third-Party Funding for Dispute Resolution in India

April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

Third-Party Funding: India & the World

April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms

April 15, 2024

The Midnight Clause

February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty

April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

campuses in India and allowing them to offer independent degree/ diploma courses to students. Steps have been taken in this direction in the past, though stone walled by various vested interests.

One such attempt was the introduction of The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 ("**Bill**"). This Bill aimed at regulating the entry and operation of foreign educational institutions seeking to impart higher education in India and also had certain checks and balances built in, for regulating the manner in which such institutes could operate. The Bill contemplated the entry of institutions, who met certain thresholds, from a quality and genuineness perspective. The Bill was never passed and ultimately lapsed.

September 2013 brought in new hope when the Ministry of Human Resource and Development issued a press release stating that proposals have been sent 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 and issue foreign degrees without the need of partnering with Indian institutes. This news, once again, created a positive buzz. However, these rules have not been released as yet.

Recent news reports suggest that the present government is once again considering the proposal to allow foreign universities to set up campus in India and policy discussions are underway. One is hopeful that the attempts will yield concrete results this time.

While allowing entry of foreign institutes in India is much needed, a balance needs to be maintained to ensure that (i) the quality of education and genuineness of such institutes are maintained (ii) they do not hamper the growth of home-grown institutions. Regulations will have an important role to play in this regard. The regulatory framework also needs to be clear, certain and forward thinking, focused on skill development and employability. To achieve this objective, there needs to be access to quality education, which can be provided by a healthy blend of Indian and Foreign Universities in India.

At the same time, it is also imperative to realize that the role of the government will not end with allowing foreign institutes to operate freely in India. Infact that's only a fraction of the task done! What's more critical from the government's perspective is to keep the foreign players incentivised to remain invested in the India and contribute to the growth of our country. Ease of entry and operation is therefore very important. The ability to operate through both a for profit entity or not for profit structure, intellectual property protection measures, relaxed norms for movement of faculty between India and the home country are some such measures that can be considered. Further, while formulating policies, government needs to ensure that these institutions are afforded complete autonomy while working within the overall regulatory framework. These benefits should be available to both domestic and international institutions of higher learning. Only when there is a healthy combination of Indian and foreign institutes, all working towards the goal of providing superior quality education in India, will India be able to evolve as a true 'knowledge economy'.

— **Aarushi Jain & Vivek Kathpalia**
You can direct your queries or comments to the authors

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.