International Journal of Management and Commerce Innovations ISSN 2348-7585 (Online)
Vol. 2, Issue 2, pp: (151-159), Month: October 2014 - March 2015, Available at: www.researchpublish.com

Challenges for Foreign Education Institutions in India

[1]Dinesh Kumar, [2]Dr. Manmohan Rahul

[1]Lt Col, HQ DGAR, Laitkor, Shillong, India – 793010
[2] Dean & HOD (Management), Ansal Institute of Technology, Gurgaon, Haryana, India

Abstract: **Presently, more than 600 foreign education institutions are operating in India with different arrangements but without any proper regulation resulting in commercialization of education and exploitation of the students. The Foreign Educational Bill was introduced to regulate these institutions and also to lay down clear guidelines in a view to attract more number of quality foreign institutes. The bill has been approved in principle but is still pending in Lok Sabha due to opposition from various private Indian institutions. Despite a emerging huge Indian market and potential for growth, majority of these foreign institutions are not willing to open own campuses in India and prefer to carryout student enrolment through websites, fairs, seminars or local partners. The provisions of the likely bill and India's socio-economic-political structure pose various obstacles to these institutions. In this research paper, the issues which may deter any foreign education institution while making a decision to enter Indian education sector have been studied.**

Keywords: **Foreign Education Bill, Challenges for Foreign Education Institutions, Highlights of Foreign Education Bill.**

I. INTRODUCTION

"Foreign Educational Institutions Regulation of Entry and Operations, (Maintenance of Quality and Prevention of Commercialization) Bill 2010" or commonly known as "Foreign Educational Bill" is considered to be an important initiative and a landmark step taken by the government of India as part of reforms being undertaken in Higher Education. The Bill aim to regulate the entry and operation of foreign educational institutions seeking to impart higher education in India. The bill was introduced in the Lok Sabha in May 2010, and thereafter was referred to a parliamentary standing committee, which gave its report in May 2011. Despite having approval of government in principle, the Bill pending in Lok Sabha due to not being given priority assumingly under pressure from lobby of Indian private institutions.

The passing of Bill does not mean that large number of foreign education institutions will rush to India, as the investment decision in this regards will be dictated by numerous issues of concern. The Indian socio-politico-economic environment poses various challenges to foreign investors, who wish to enter Indian education sector. To analyse this issue, the report and studies on the proposed bill, India's economic credibility, India's position as perceived by various human development agencies and world's watchdog have been studies form the websites of Lok Sabha, trading economics companies, UNDP transparency organisations and paper by Mr Sharma on Internationalisation of Higher Education. In this paper, we will analyse all such issues such as the need for the Bill, its major provisions and their implications along with other challenges which any foreign education institution has to consider while making his decision to enter Indian education sector.

II. FOREIGN EDUCATION BILL AND ITS PROVISIONS

A. *Need for the Bill*

India's over 50 % of 1.20 billion populations is young and is below 25 years of age. The various government agencies claim that India's gross enrolment ratio (GER) in higher education sector is around 18 %. In year 2011, the annual enrolment of students in higher education has touched a figure of 21 million. The government plans to increase the GER to 23 percent in next future. To achieve this target, the necessary educational infrastructure needs to be created otherwise the gap between supply and demand will widen. The requirement of huge investment to create additional infrastructure cannot be met by the government funds alone and hence involvement of private domestic and foreign investors is also needed. Besides encouraging more number of players in this sector, regulation has to be done for quality control and to avoid commercialization by means of a legislature.

As per a study conducted by the Association of Indian Universities (AIU), in 2010, there were 631 foreign education providers[1] operating in the country. From the Fig 1, it can be seen that only five out of 631 foreign educational institutions (FEI) have opened the campus in India and majority of them are giving degrees under some arrangements with local partners or operating from their home campus.

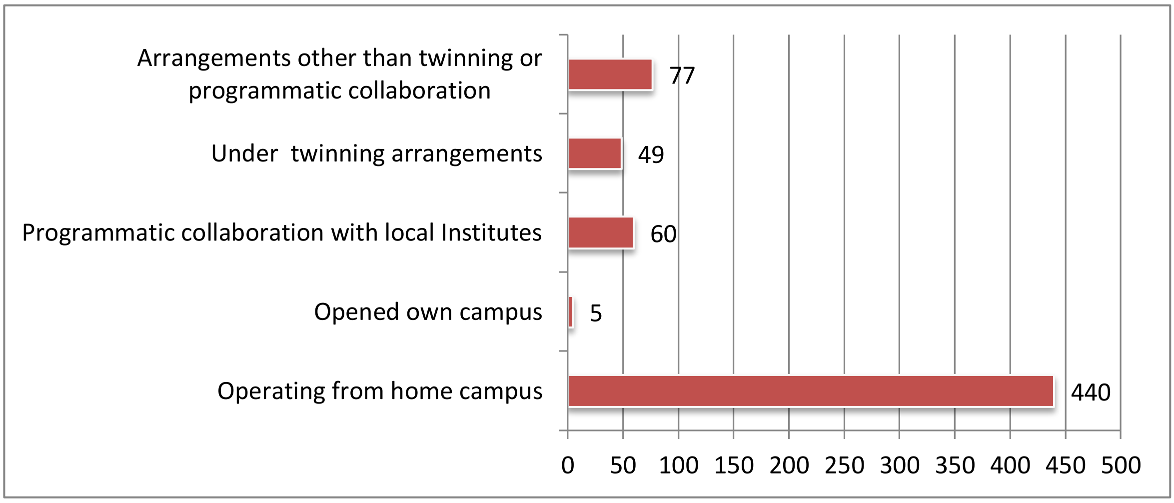

Fig. 1: Breakdown of Foreign Education Providers 1

Majority of them are not willing to open own campuses in India and prefer to carryout student enrolment through websites, fairs, seminars or local partners. These types of arrangement results in to unregulated education sector in terms of quality and services. The regulation of these foreign institutes needs to be done to avoid commercialization of education and exploitation of the students. After the implementation of the Bill, foreign educational institution can impart education in India only after their recognition and notification by the Central Government as a foreign education provider (FEP) under the proposed legislation.

Apart from this, despite the available surplus capacity in Indian Colleges the migration trend of Indian student to foreign countries for education has been on the rise, which is causing brain drain and outflow of foreign currency for education import. This Bill is likely to reduce the student migration to foreign countries after such institutes open their campuses in India.

B. Provisions of the Bill and its Implications

The Foreign Educational Institutions (Regulation of Entry and Operation) Bill 2010 aims to regulate the entry and operation of foreign educational institutions seeking to impart higher education. After the Bill is passed, it will be mandatory for every FEI operating in India or those who intend to operate in India, to apply for recognition to get them notified as a FEP. This notification will done by the central government on the recommendation of the registrar (secretary of the University Grants Commission), who will ensure the quality and other parameters of such institutions.

1) Quality of Programmes Offered in India

Presently there is no regulation regarding the quality of programmes being offered by the foreign institutions. After the Bill is passed, FEP has to follow and maintain the quality of the programmes which it plan to impart in India in conformity with the standards as laid down by the Indian statutory authority. It is mandatory that FEI should have been established or incorporated and is offering educational services for at least twenty years and registered along with the status of its accreditation. The FEI should have adequate financial and other resources to conduct the courses in India. FEP will ensure that the quality and curriculum, methods of imparting education and the faculty employed or engaged to impart education for educational programmes offered in India's branch campus is not in isolation and is comparable to being offered by the FEP to the students enrolled in the main campus of FEP in its host country. However it implies a dual regulation of the FEP at their host country and India by different agencies which sometimes may be an issue of conflict.

2) Corpus Fund and Use of Income from Corpus Fund

The FEP will be required to maintain a corpus fund of not less than fifty crore rupees or such sum as may be notified from time to time by the Central Government. This purpose of corpus fund is to bring investment, have financial guarantee of the FEI and stop him from bailing out of the country and leaving the students in a lurch, if their investment is not giving return or for those one night operators who collect the fee and run away. As per the provisions of the Bill, FEP cannot utilise more than seventy-five per cent of income received from the corpus fund for the purposes of development of its institution in India. The remaining of such unutilised income by the FEI will be deposited into the corpus fund. Also, the revenue generated can only be utilised for the growth and development of the educational institutions established by FEI in India and it cannot be used as investment for any other purpose.

Though in the present environment, Rs 50 crore in corpus fund is not an issue but the restriction on use of the revenue generated is major concern for any investor in India. One of the purposes of the corpus fund in the bill is to bring foreign investment in India but the total amount brought into India is unlikely to be very large. The experiences from other countries brings out that the sponsoring universities abroad hardly / seldom spend significant amounts on their branches.

3) Fee Regulation

One of the biggest concerns limiting the participation of outside investors is tuition regulation. When initially opening the institution, they can set the fees (within a certain range) as they see fit. However, after once they become operational, they will require approval from education regulators to raise any tuition fee. Freezing of tuition fee is a well-intended government attempt to protect consumers. However this clause of bill may have implication on the subsequent development plan of the FEI.

4) Mandatory Publication of Prospectus to include its Contents and Pricing

FEP is duty bound to publish the Prospectus within sixty days prior to the date of the commencement of admission to any of its courses or programmes of study, fee details, deposits, other charges, the percentage of tuition fee and other charges refundable to a student admitted in such institution in case such student withdraws from the institution. It also require to publish the number of seats approved for the course, the conditions of eligibility to include the age limit and the educational qualifications for the course, the process of admission and selection of eligible candidates applying for such admission, information in regard to the methodology or details of test or examination, details of the teaching faculty including the educational qualifications and teaching experience of every member of its teaching faculty and also indicating therein whether such members are on regular basis or as visiting member, the minimum pay and other emoluments payable for each category of teachers and other employees.

5) Advisory Board

The bill also mandates that the FEP branch campuses should have an Indian advisory board of three national research professors per foreign institution. The boom in student enrolment in the world resulted in better salaries and facilities at abroad universities. The mobility of the quality faculty has resulted in depleting the Indian university departments and creating a shortage[2] of 35 %. It may be difficult to find so many distinguished national professors to meet the conditions of the Bill.

6) Strict Penalties

FEP under the proposed legislation, who contravenes the mentioned clauses shall be liable to a penalty of not less than ten lakh rupees which is extendable to fifty lakh rupees and forfeiture of the corpus fund in whole or part thereof. The variety of conditions and fear of penalties which may be intentional or unintentional due to complex regulations may deter many foreign institutions from involvement in India.

III. OTHER CHALLENGES FOR FOREIGN EDUCATION INSTITUTIONS IN INDIA

The provisions of the Bill and the procedures to establish an institute in India for FEI are not very encouraging. Though India is a country with population of 12415 m but is a lower middle income country with GNI per capita 1420 (US$) and more over Indian work culture, and opaque regulations do not welcome the FEI. The FEI have to deal with impenetrable and corrupt bureaucracy. Interestingly, all such challenges being discussed are not only for foreign investors but few of them are also applicable to domestic investors also. The chances are that the domestic investor, by virtue of his political, regional or local connections, may use these challenges to his advantage in the competitive environment. Further, we will discuss the other challenges for any FEI has in India.

A. Credit Rating

The credit rating is used by sovereign wealth funds, pension funds and other potential investors to gauge the credit worthiness of a country and thus also has big impact on the country's borrowing costs. The poor rating by these rating agencies create a negative attitude of any investor planning any investment in any country. Due to unstable government policies, balance of payment record and political turbulences, India credit has been ranked[3] BBB- and Negative by S&P, BAA3 and stable by Moody, BBB- and Negative by Fitch in Sep 2013. For education sector, FEI are required to make a long term investment and these ratings plays a very important role in decision making for investment.

B. Opaque Regulations

The different regulation system and procedures in each state are the functional challenges for any business entity to open a new set up. Obtaining PAN No TAN No, TIN NO, License, inspections and approvals from various regulatory bodies starting from land acquisition, construction, environmental, forest, civic bodies, audit and after that Octroi, LBT etc are the whirlpools in which any foreigner without links and kinks can't make any progress.

Education in India is a joint responsibility of the Central and State governments. Apparently, each state operates a relatively similar system of regulations, licensing, and inspections, with one or two main regulatory bodies but actually due to work culture the organizations on each state has different regulations, policies and procedures for the education community. Apart from this, the issue gets further complicated when the State governments start setting their own regulations, terms and conditions for FEI. Many States have different approach for expansion of higher education institutes and to foreign involvement. For example States such as Andhra Pradesh and Karnataka, are found to be quite interested in participation of foreign institutes in the field of higher education in their state whereas States such as West Bengal with its communist government is sceptical and opposing.

C. Doing Business in India

World Bank carried out a study of various countries regarding the ease of doing business and published a report with the title "Doing Business 2013[4]: "Smarter Regulations for Small and Medium Size Enterprises". Due to the regulations, red tape-ism and bureaucratic practices, India has been ranked at 132, whereas Singapore is ranked at number 1 and the most favourable country in the ease of doing business. India is ranked much behind even after Pakistan and Bangladesh but ahead of country like Iraq. It means, the flexibility provided to an investor even in Pakistan and Bangladesh is more than in India. It actually does not mean that more investment will flow to these countries as the other factors like return on investment and political stability and size of market matters. The comparison of various counties of the world, based on the ease to open a new business is given at Fig 2: Fig. 2: Ease of Doing Business **1**.

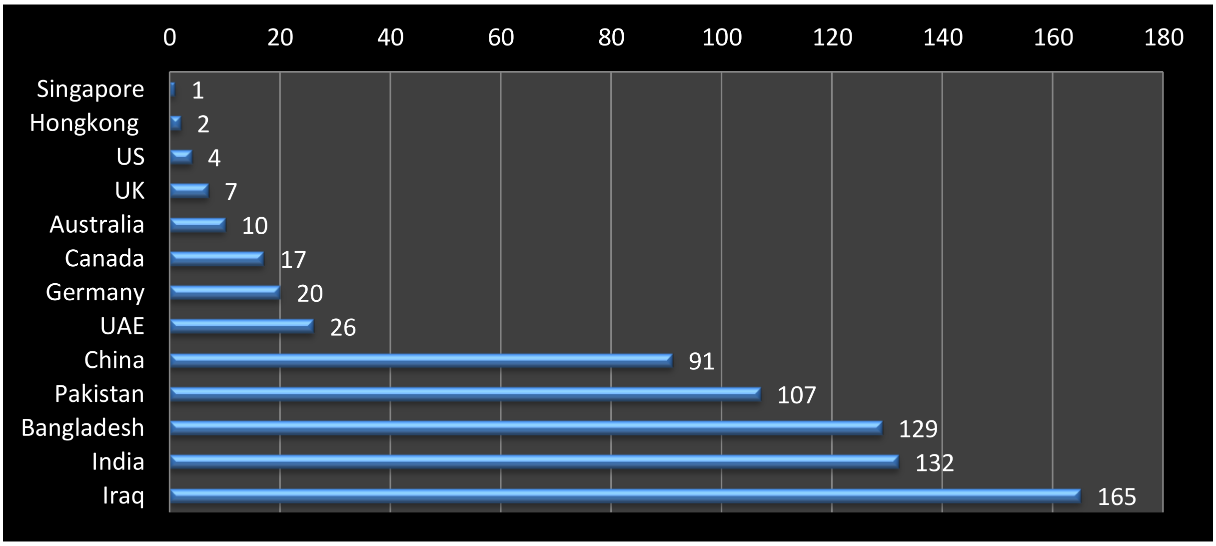

Fig. 2: Ease of Doing Business 1

For starting of any business, apart from the technical clearances, the common activities which have to take place generally in the sequence are:-

Dealing with construction permits
↓
Getting electricity
↓
Registering property
↓
Getting credit
↓
Protecting investors
↓
Paying taxes
↓
Trading across borders
↓
Enforcing contracts
↓
Resolving insolvency

In India for each activity different agencies has to be dealt having different set of rules and regulations. As per the same study, for getting a household electricity connection in India it takes 67 days and that does not include the greasing of palms of the concerned authorities. A breakdown of time required for the common categories of various activities is given at Table1: Ease of doing Business. Apart from this, the regulatory authorities of education and specific requirements need to be met for establishing an educational institute.

Table 1: Ease of Doing Business 2

Dealing with construction permits (rank) 182	Procedures (number) 34
	Time (days) 196
	Cost (% of income per capita) 1,528.
Getting electricity (rank) 105	Procedures (number) 7
	Time (days) 67
	Cost (% of income per capita) 247.3
Registering property (rank) 94	Procedures (number) 5
	Time (days) 44
	Cost (% of property value) 7.3
Getting credit (rank) 23	Strength of legal rights index (0-10) 8
	Depth of credit information index (0-6) 5
	Public registry coverage (% of adults) 0
	Private bureau coverage (% of adults) 14.9
Protecting investors (rank) 49	Extent of disclosure index (0-10) 7
	Extent of director liability index (0-10) 4
	Ease of shareholder suits index (0-10) 7
	Strength of investor protection index (0-10) 6.0
Paying taxes (rank) 152	Payments (number per year) 33
	Time (hours per year) 243
	Total tax rate (% of profit) 61.8
Trading across borders (rank) 127	Documents to export (number) 9
	Time to export (days) 16 & Cost to export (US$ per container) 1,120
	Documents to import (number) 11 & Time to import (days) 20
	Cost to import (US$ per container) 1,200
Enforcing contracts (rank) 184	Procedures (number) 46
	Time (days) 1,420
	Cost (% of claim) 39.6
Resolving insolvency (rank) 116	Time (years) 4.3
	Cost (% of estate) 9
	Recovery rate (cents on the dollar) 26.0

D. Human Development Profile

India does not have a very clean track in human development. UNDP report[5] on human development profile of the countries of the world, place India at 136 rank much below the countries like Sri Lanka, Romania and Columbia, The report place Afghanistan, Sudan, Pakistan and Bangladesh at a lower index than to India. The report has been prepared considering four specific areas for sustaining development momentum, equity to include the gender dimension, greater voice and involvement or participation of citizens including youth, managing demographic change and environmental issues. The human development index of the countries of the world is given at the Fig. 3.

Fig 3: Human Development Index 1

The poor rating of India is a major cause of concern in deterring FEI for investing heavily in India.

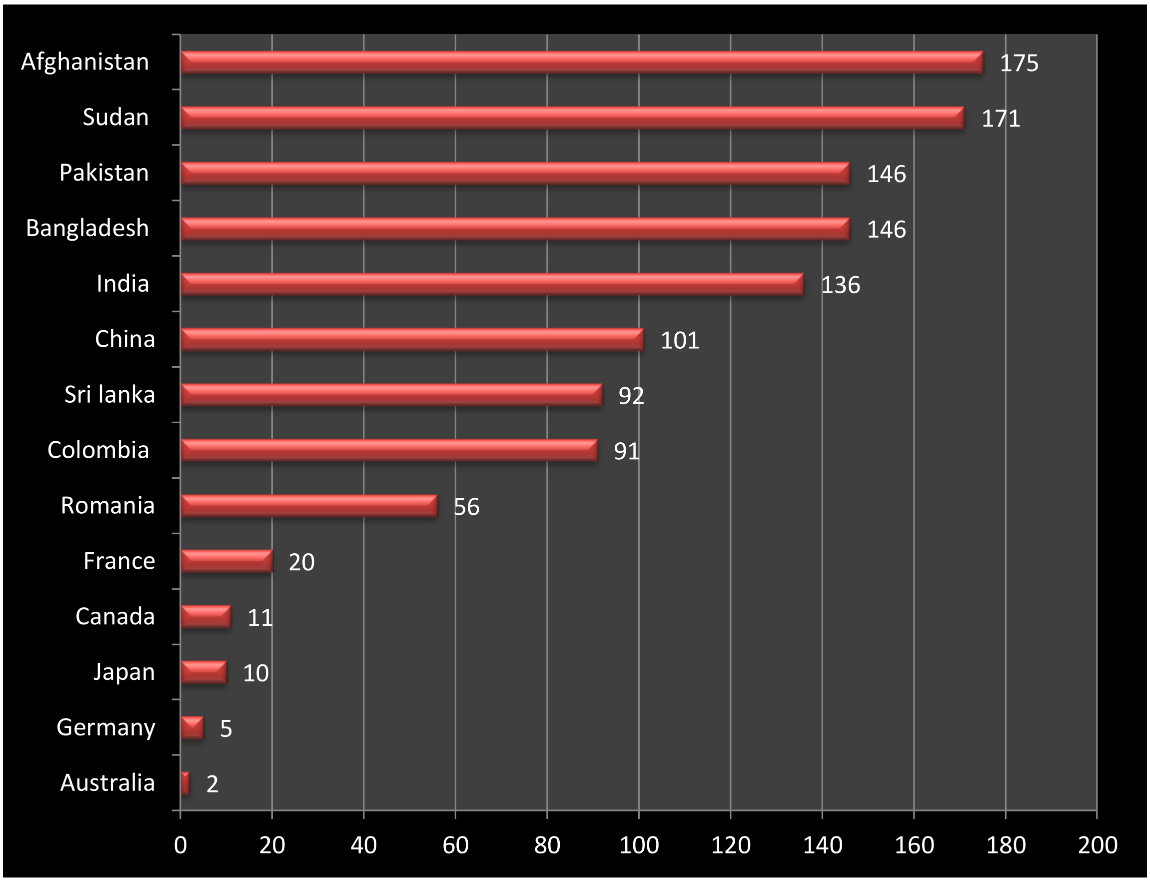

Fig 3: Human Development Index 1

E. Corruption in India

Education ensures the human values and accordingly human rights by improving the society on economic, social and political fronts. However corruption is a critical threat to the human rights and to the furtherance of any policy for human development by weakening the institutions, eroding the public trust in government. Communities and nations are squandered whenever the access to education or its quality suffers. Corruption in the education system not only distorts access to education but also affects the quality of education and the reliability of academic research findings. Corruption risks in India can be found at every level of education which may be procurement of school resources, or getting recognition for the institute from the government agencies, or hiring of the teachers or the skewing of research results for personal gain.

As per the report "The Global Corruption Report" of Transparency International, corruption is at every point of education. It starts even before entering the school gates and continue till the doctoral graduation and academic research. It defines that Corruption in schools can include procurement in construction, 'shadow schools', 'ghost teachers' and the diversion of resources intended for textbooks and other supplies like school dresses or other material, bribery in access to education and the manipulation of grades, favoritism in teacher appointments and fake degrees or diplomas, the misuse of school grants for personal gains, absenteeism, and encouraging the private tuitions in place of the formal teaching. It can also include such practices as sexual exploitation in the classroom as abuses of entrusted power by the education providers.

As per the report "Corruption Perceptions Index (2012)" of Transparency Organization which survey all the countries of world on corruption and transparency, as the perceived levels of public sector corruption in countries (refer Fig 4: World Corruption Index), India is ranked 94 (out of 176) with a score of 36 out of 100. Surprisingly, the countries like Namibia and Cuba are found to be lesser corrupt than India. Such a poor ranking of India deter the reputed and quality institutions to establish a base in India, since they find it difficult to deal with the various agencies and grease their palms.

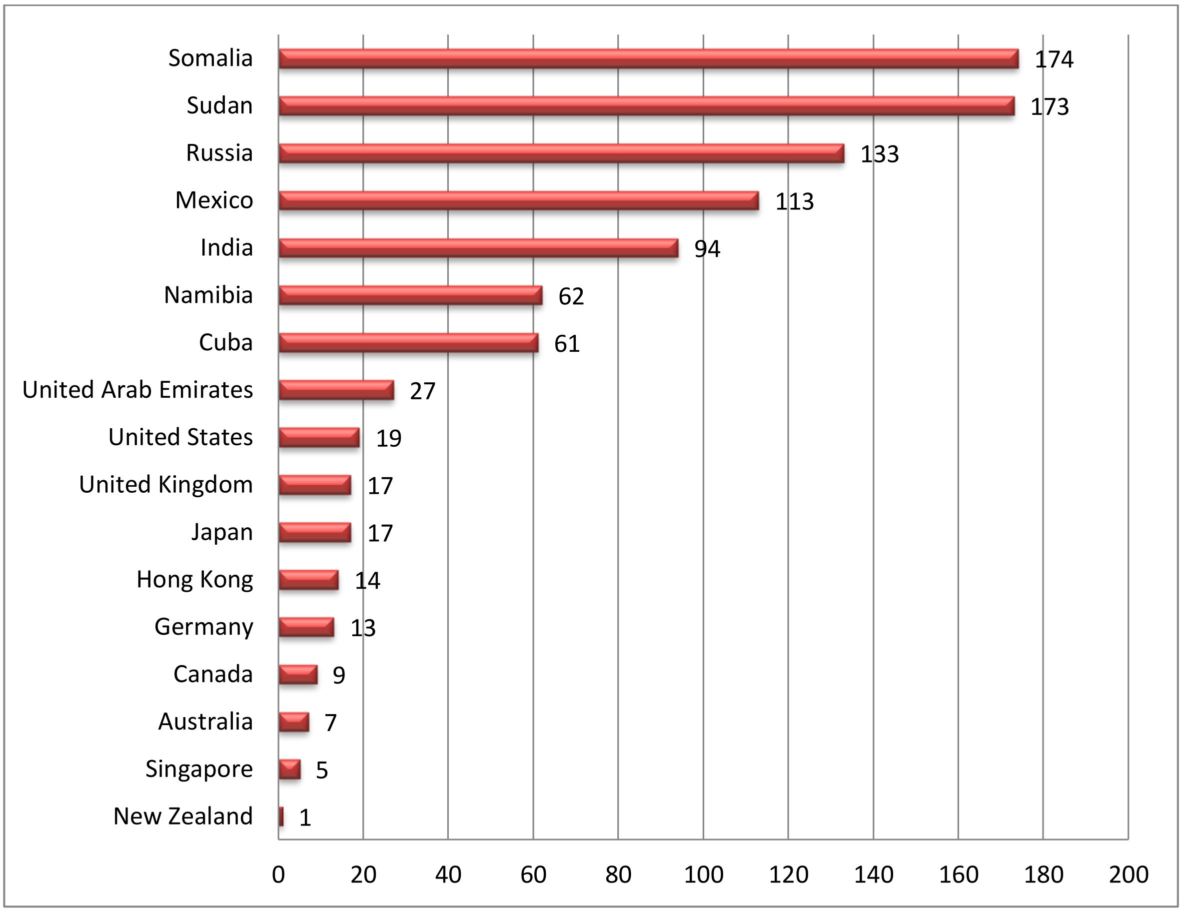

Fig 4: World Corruption Index 1

F. Government Regulatory Reform

The current regulatory systems create a degree of ambiguity that is responsible to keep many international investors from pursuing opportunities within India. Higher education[6] in India is going through a transitory phase with rapid changes. There is a vast requirement of investment in this sector but the resources available with the government are limited due to various other socio-political factors. The public sector participation in the education sector is declining and the private sector participation is expanding rapidly. The present regulatory system, which is basically University Grants Commission (UGC), professional councils, a few research councils and state governments, has failed to hold new private institutions to standards while erecting formidable barriers to competition and quality. The sector is tightly controlled by the government and as a result, regulatory bodies are poor at enforcement. In addition, there are almost fifteen ministries/departments in the Government of India that establish, finance, or regulate higher education institutions and hence interfere in their working.

The regulatory bodies are not armed with the powers mandated by the Constitution and also they failed to devise a mechanism at their own level. They have neither framed appropriate regulations nor developed a system of supervision and control over the institutions they are required to deal with. Low levels of independence both functional and financial in discharging their functions, has hampered functioning of these bodies. For example, the UGC is vested with the responsibility of coordination and provision of funds and determination and maintenance of standards in higher educational institutions. However UGC does not have the means or resources to control the quality of teaching and recruitment of faculty, ensure minimum infrastructure for all educational institutions and their engagement in the monitoring and promotion of research.

National Knowledge Commission (NKC) has recommended establishing a single and Independent Regulatory Authority for Higher Education (IRAHE) that would be an umbrella organisation founded under a separate statutory act. The IRAHE would provide single window clearance and replace multiple existing regulatory agencies. It will be the only agency to accord degree granting power to higher educational institutions and monitor standards, settle the disputes and license accreditation agencies.

The coordination between the regulator and the line ministry is also found to be missing. The line ministry has tried to limit the regulator's independence on the pretext of policy directives. Due to confusion at every end and a standard procedure of "Office Office" a famous TV serial programme, the FEI find it difficult to skirt the various agencies with complex network of responsibilities and powers.

G. Reservation Quota

The uncertain policies of political parties, under the pressure of votes, may put the FEP under the Indian existing system of subsidies and a complicated and controversial reservation regime. In India the domestic public universities are duty bound to reserve at least 50 per cent of seats for students from certain minority groups or low-income families. If such policies are made applicable to FEP, the FEP will be under a risk of getting returns from their investment and also damaging their reputation of quality product.

H. Student Enrolment

The FEI are expected to provide the much needed capacity and new ideas on management of higher education, curriculum, teaching methods, and research. It is believed that FEI will not only bring sufficient investment in India but also the Top-class foreign universities will add prestige to India's education system. However, despite the foreign transplants elsewhere in the world were able to provide some additional access, yet the student numbers have not increased dramatically. The low enrolment of students in the existing foreign institutions is demoralising for these institutions and example for other new entrants in this sector.

I. Branch Campus

From the example of other countries as Vietnam, Malaysia and Persian Gulf, where the foreign universities have established their campuses, it has been seen that almost all such branch campuses are small and limited in scope and field. These Branch campuses are tightly controlled from the home university and having a very little autonomy, fairly small and almost always specialised in fields, inexpensive to offer and have a ready clientele on the subjects of technology, business studies and hospitality management. Considering that a huge investment will come in these branch campuses is an issue of second thought.

IV. CONCLUSIONS

Foreign Education Bill has been initiated to regulate an unregulated sector which is presently being exploited by the foreign institutions and even Indian institutions with collaboration with foreign institutions. Till the time, regulation for these FEI are not laid down by a legislation, the education sector will continue to be exploited by nexus of few Indian institutes and around 630 FEI without any worthwhile gain to students or the country.

The bill further aims to open the Indian education sector to foreign universities to meet the growing gap between supply and demand in quality and accessible higher education sector. However the provisions of proposed bill and India's local conditions pose challenges to any foreign investor which intend to enter India' education sector and hence the investors will try to weigh between dividends perceived and challenges to be countered for entering the Indian market before investing in a big way. India may not be a favourite investment option for majority of prestigious foreign institutions. The foreign institutions entering Indian will not be for Nation duty but for making profit and for the global expansion. Top universities may not like to enter Indian market directly and would like to watch the Indian scenario by making collaboration with reputed Indian Universities rather than building full-fledged branch campuses on their own at least in the immediate and mid-term future. The bill is still in the shelves of Parliament and the foreign institutes are in dilemma regarding their investment. Till the time regulations are not made simple and business environment is not made conducive, no major changes can be expected.

After the BJP government came to power in 2014, the Prime Minister Sh Narendra Modi is making serious efforts to remove irrelevant regulations and abolish license raj to bring more transparency and accountability in government organisations, simplify the procedures of doing business in India, raise the quality of life and make India as an attractive destination for foreign investors. World -wide investors are waiting for the implementation of Sh Modi's policies on ground and will decide after some worthwhile changes take place.

ACKNOWLEDGEMENT

I would like to acknowledge the support and guidance of Dr Manmohan Rahul, Dean & HOD (Management), Ansal Institute of Technology, Gurgaon, Haryana who has guided and motivated me to write the research paper.

REFERENCES

[1] http://www.thehindu.com/news/national/article3477233.ece

[2] Sharma author of Internationalization of Higher Education: An Aspect of India's Foreign Relations (2008).

[3] http://www.tradingeconomics.com/india/rating

[4] http://www.doingbusiness.org/~/media/GIAWB/Doing%20Business/Documents/AnnualReports/English/DB13-full-report.pdf

[5] http://hdr.undp.org/en/media/HDR2013_EN_Summary.pdf Human Development Report 2013 The Rise of the South: Human Progress in a Diverse World

[6] http://www.oecd.org/gov/regulatory-policy/44925979.pdf