South African legislation on limiting private and foreign higher education: protecting the public or ignoring globalisation?

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ABSTRACT

In October 2000 legislation was passed by the National Assembly to amend the Higher Education Act (Act 101 of 1997). A number of the amendments were aimed at limiting the operations of private and foreign higher education institutions in South Africa. Good arguments exist for the legislation as accepted, but questions are also being raised as to whether the amended Act might represent some form of protectionism, allowing certain local higher education institutions to continue with weak programmes and practices instead of allowing open competition to challenge and eliminate weaknesses. Questions are also being asked about depriving students of opportunities and choices in an increasingly globalised economy.

The article introduces a link to the concept of globalisation by indicating how global financial markets impact on developing countries. It then explores the globalisation phenomenon as it impacts on education in general and higher education in particular. Against a backdrop of the factors leading to closer regulation of private and foreign higher education, the article discusses its implications and points towards certain alternative avenues that might protect "consumers" of higher education on the one hand but also promote healthy competition and co-operation for improved quality in higher education in South Africa.

INTRODUCTION

In his account of how developing countries are influenced by the phenomenon of globalisation under the subheading: "Dance of the Dinosaurs", Ash Roy (1999:95) suggests that "the markets" are emerging as global entities more potent than any military or political power. As the new ruling international authority, the global marketplace has emerged

by eliminating trade barriers through the rise of communications technology. In 1999 the average daily worldwide trading in financial instruments exceeded 1 trillion American dollars - largely carried out by huge financial institutions with short investment horizons and beyond the control of any single government. Roger Altman, a USA investment banker speculates that we "... have entered an age of unprecedented financial power and risk. Markets will be the dominant worldwide force of the 21st century, dwarfing that of the United States or any consortium of nations. And as with nuclear weapons, we are now permanently in their shadow" (Roy 1999:96). On a global scale, developing countries have very little say and except for some potential regional power, these countries are likely to be relegated to the status of "... neocolonial resource zones to be courted by the major economic blocks" (Harkavy 1997:572).

In contrast with the economic domination scenario, protagonists of the "global village" thesis do not visualise any fundamental conflict either between nations or between trading blocks. They believe the world will be more integrated and will be guided by global interdependence (Yergin & Stainislaw 1998). The communication revolution has effectively abolished distance and made terrain irrelevant. But has the world actually become a "global village"? Roy (1999:100) suggests that in many respects the the concept of the "global village" has indeed materialised and promotes single cultural forms. Together with the "Cocacolisation and McDonaldisation" of the globe, manipulation of the entire socio-political context in which people in the developing world work, eat and learn has been evident.

To counteract total economic and cultural domination and to cope with the demand of globalisation, Browne (1998) suggests that regionalisation might be one of the keys to a possible solution. Armin (in Shariff 1997) reiterates; "... all Third World countries need regionalisation which is a means to reinforce the capacity to negotiate globalisation". Apparently this approach might provide frameworks for what one analyst (Browne 1998:82) terms: "... lateral, as

opposed to vertical forms of development co-operation". Roy (1999:120) maintains that the developing world needs globalisation from below and not from above in order to create space for themselves: "The developing countries must hang together or else they will be hanged separately by the developed world" (Roy 1999:121).

The question arises as to the effect of globalisation on higher education as an "evolving enterprise". What are the effects of globalisation on higher education systems and institutions? Are there differences between the concepts of globalisation and internationalisation? How should governments and institutions in developing countries respond to the phenomenon of globalisation? Is the effect of globalisation on higher education different from other domains of societal life?

GLOBALISATION AND HIGHER EDUCATION

The terms internationalisation and globalisation are often used interchangeably, with the latter term tending to displace the former. One line of thought has it that there seems to be little difference between the two terms, except perhaps in their scale and intensity. Others (Gibbons et al 1994; Middlehurst 2000; Scott 1998 and Scott 2000) argue that not only are internationalisation and globalisation different, but that they are actually opposing terms.

Scott (1998) maintains there are three main reasons why globalisation cannot simply be regarded as a higher form of internationalisation. The first reason is that internationalisation presupposes the existence of established n

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to demonstrate their knowledge and skills and build on earlier learning (Department for Education and Employment 1996).

The report from the DfEE was followed by a White Paper on Lifelong Learning in 1997 stressing the creation of a learning society supported by lifelong learning and a commitment to continuous education to prepare workers for changing job requirements resulting from technological innovations.

Where does all of this leave education in Africa, and more particularly Southern and South Africa in terms of a global perspective? What are the challenges faced in terms of global education?

It seems worthwhile firstly to consider regionalism as a possibility to strengthen the capacity of developing against new forms of imperialism. Just as economic imperialism seems to be a threat, so does intellectual imperialism in higher education equally pose a possible threat. It might be better to determine which areas and forms of research and teaching is needed in a developing context rather than trying to imitate or duplicate what is happening in the developed world. Secondly it is also important to realise that higher education is perceived to be one of the primary contributors of socio-economic advancement. Through providing well-educated professionals and technologists, relevant research, innovative leadership and fostering democratic values, higher education can be one of the main forces for development.

CLOSER REGULATION OF THE SOUTH

standards that are not inferior to standards at comparable institutions. The report also highlighted, however, a number of concerns that had to be investigated further. Firstly the question of quality and appropriateness of programmes offered by private institutions. For example, a focus on non-SET (Science, Engineering and Technology) programmes provide private institutions with a high return on investment for a relatively low outlay. Programmes are shorter and more intense than those offered at public technikons and appropriate quality assurance systems were found to be lacking. Secondly, it was not assumed that private education programmes were inferior as they appeared to meet market needs and were accepted by many in commerce and industry. It also appeared as if private institutions capitalised on aggressive and effective marketing strategies. The report documented a number of national strategies such as the following (mainly to counter competition from private institutions) to be considered by the technikon sector:

- Ways to compete in an open, global, highly competitive and customer-driven higher education market;
- Repositioning of technikons in the national and international markets and consider changing their nomenclature;
- Aggressive marketing and public awareness campaigns.

The second report was produced by the Centre for Higher Education Management Systems (CHEMS) of

1997 (the Higher Education Act) for different reasons and purposes. Four articles of the Act are highlighted as being relevant to the purpose of this article (the essence of the amendments being put in italics):

- Section 3 of Act 101 is amended to provide the Minister of Education with the authority, in the interest of the higher education system as a whole, to determine the scope and range of operations not only of public and private higher education institutions, but also of individual public or private higher education institutions;
- Section 51 of Act 101 is amended to allow the Registrar of private higher education institutions discretion to grant registration to institutions as private higher education institutions in terms of the Companies Act (61 of 1973);
- Section 53 of Act 101 is amended to allow the Registrar of private higher education institutions discretion to decide whether the name "university" or "technikon" might be used or not;
- Section 54 of Act 101 is amended to allow the Registrar of private higher education institutions discretion to differentiate between local and foreign applications for provision of higher education (RSA 2000).

In the explanatory notes of the Amendment Bill (RSA 2000a), the following reasons for the relevant amendments are provided: "Our country has during the recent years experienced an influx of foreign private education institutions. If left uncontrolled, this might be to the detriment of our local higher education system. Discretionary powers are allowed to the registrar of private higher education institutions

POSSIBILITIES FOR FUTURE EXPLORATION

It seems clear that to evangelise public higher education and demonise private provision or vice versa is not an option for developing countries and South Africa in particular. The country needs both public and private higher education provision of quality. The fact is that higher education is expensive and becoming increasingly so. The South African government will find it more difficult in future to meet public higher education expenditure, even at the present subsidy levels of approximately 60 per cent. One way to establish quality is by close regulation, which might also prove to be quite expensive in the long run.

The crucial element in a balanced approach is the discretion allowed in the current amended legislation to the minister and the registrar of private higher education. The legal basis has been established. which in itself might be positive, since many examples exist where an open and free market might not be the best way to promote quality higher education in a developing country. In the same vein it can be said that South Africa, in more than one respect, is also a developed country, requiring more of an open market to enable choice. It has been proved, moreover, that private higher education institutions are generally more efficient than public institutions simply because of their profit motive. This assumption should, however, be viewed with caution, since many public higher education institutions are becoming increasingly entrepreneurial and corporate in their approach. Therefore it might be wise to look past the current legislation and its constraints and add a number of fresh perspectives.

Globally the topology of higher education is becoming increasingly complex. Today phrases such as entrepreneurial, service, corporate, virtual, learning community and supercomplexity are linked to higher education provision (Barnett 2000; 2000a). In a global environment, isolation or protectionism can be stifling, since the challenges to higher education to utilise the information superhighway and create lifelong learning opportunities determines to a great extent the quality of the workforce. In an age of abundant information, higher education needs new roles and functions to be valuable. It also needs to look beyond quality as the only criterion for provision.

The basic access rate of higher education (calculated by expressing the number of first year, first degree places as a percentage to the number of 18-year-olds) worldwide was 16 per cent in 1999 (Blight, Davis & Olsen 2000). The diversity of access is demonstrated when one considers that the percentage figures for Africa, Asia, Europe, the Americas and Oceania range between 6, 11, 32, 34 and 35 respectively. This indicates that for Africa to grow economically it needs increased higher education

provision. South Africa is in an excellent position to provide in this respect and, increasingly, fee-paying students are studying in this country.

There are sound reasons for protectionism if we take a narrow view of higher education, but why should stakeholders in higher education world-wide, also in South Africa, seek to increase international involvement rather than to excessively protect what they have? Why should government, institutions, community, business and industry be taking the broader view? There are four categories of good reasons for this: Political, economic, academic and cultural/social (also see Knight 1997; Amaral & Magalhaes 2000).

Firstly, governments should capitalise on the political incentives it will gain from committing itself to a globalised economy within a regional powerbase, through exhibiting openness to the world and its societies and commitment to development of the region within a global perspective.

Secondly, the economic incentive includes exporting a service like higher education and assisting students to operate in international and intercultural contexts. This means that if foreign institutions want to operate in South Africa, there should also be opportunities identified for South African institutions to operate in the foreign country by offering programmes of study which will be of benefit to the particular country in question. African Studies programmes, Tourism in Africa and programmes in specialised areas of science might be examples of such programmes. Thirdly, individual public higher education institutions could benefit from partnerships and agreements with foreign and private institutions if these institutions are of recognised quality or if they offer quality programmes in particular areas. Fourthly, it has been shown that international academic approaches attempt to avoid parochialism. Interaction with other cultures and perspectives is important for student development, while awareness and understanding of new and changing phenomena enhance students' abilities to apply new solutions to problems.

The amended Higher Education Act, supplemented by the National Plan for Higher Education, are clearly steps towards increased and tight control. Given the immediate experiences with private and foreign higher education provision in South Africa, this is probably an appropriate step. However, if control reaches the point of protectionism and a broader view of the value of private and foreign higher education provision within a global economy is lost, this will result in the setting of a dangerous precedent. In such a scenario the public of this country might not be protected against external exploitation. On the contrary, they might be left with a higher education system stifled into becoming an ideological desert.

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