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The Evolving Regulatory Context for Private Education in Emerging Economies

by
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for

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I. Introduction

Governments around the world, and particularly those in developing countries, face significant educational challenges. Despite progress in raising education enrolments at the basic education level, much remains to be done. Today, about 77 million children in developing countries are not in school, particularly in Sub Saharan Africa and South Asia. Higher education participation rates remain low in many developing countries, and public higher education institutions (HEIs) struggle to absorb growing numbers of secondary school graduates. Public universities face ongoing challenges, including a lack of teaching and research resources, and the loss of qualified staff to developed countries. The inability of public sector educational institutions, particularly in developing countries, to absorb growing numbers of students at all levels of education has seen the emergence of private schools and HEIs.

This paper briefly examines the international experience concerning the regulation of private education at the school and higher education level. It begins with an overview of the private school and higher education sectors and a short discussion of the potential benefits of increased private participation in education. The remainder of the paper focuses on the following questions and sets out some possible Good Practice Propositions for governments to consider:

- What are the potential regulatory barriers to private sector growth from both an educational and financial sector perspective?
- What are some possible policy initiatives that would address these barriers?
- What are the key elements to be addressed in developing regulatory frameworks for private provision?
- Are there examples of good practice among existing policies, either in whole or in part?
- What are the specific regulatory issues that need to be addressed to facilitate new and innovative educational partnerships between the public, philanthropic, and private sectors?
- What role can international organizations such as the World Bank and IFC play in promoting private participation in education?

II. Global Private Education: An Overview

Public delivery of education represents the norm at both the school and higher education levels in all but a handful of developed and developing countries. For example, over 80 percent of school level students in OECD and partner countries[1] were enrolled in public schools in 2004. In only three countries – Belgium, Chile, and the Netherlands – does the private sector share of school enrolments exceed the public sector share of enrolments. The private sector also plays an important role in the delivery of school level education in a number of other developed countries, including Australia, France, Korea, and Spain.[2] In only a handful of non-OECD countries – including, Lebanon, Bangladesh, Fiji, and Guatemala – do more than 50 percent of students attend private schools at either the primary or secondary levels. However, significant private sectors (e.g. 30-40 percent) can be found in a number of other countries, including Bangladesh, Cameroon, Guatemala, Indonesia, Mali, Pakistan, The Gambia, and Togo. Private participation is generally higher at the higher education level than at the school level. This is true for both OECD and non-OECD countries. Indeed, the private sector dominates the delivery of tertiary education in several countries, including Belgium, Brazil, Korea, and Philippines.. It also plays a significant role in several other countries, including Burundi, Colombia, Ethiopia, Lebanon, Malaysia, Niger, and Rwanda.

Private delivery of education comes in many shapes and sizes: 'formal' private schools and HEIs, so-called 'cramming colleges' that prepare students for national exams, informal or community schools, individual tutoring services, and Internet-based providers. The education market is characterized by a diversity of providers, including not-for-profit institutions and religious institutions such as the Seventh Day Adventist and De La Salle networks of schools and universities. An important distinction is between 'government-dependent' private schools, which, although managed autonomously, receive more than 50 percent of their funding from public sources and 'independent' private schools, which are entirely separate from the State and rely on fee income to survive. Variants exist – for example, Ethiopia, where some private schools use public facilities and staff from public schools in the evenings. Generally speaking, 'government-

[1] OECD 'partner countries' are Brazil, Chile, Israel, and the Russian Federation. These countries are not members of the OECD but their data are reported in OECD's annual survey *Education at a Glance.*
[2] OECD (2006) *Education at a Glance*, Paris pp. 274 and 280.

dependent' private schools are more heavily regulated than 'independent' private schools. Although private education is often labelled elite, much of the school level provision in developing countries serves poor populations – and increasingly so in many countries, including Pakistan and India. In many African countries, a large part of the private school sector involves 'clandestine' schools that are not licensed to operate. Private schools serving the poor are usually set up in non purpose-built buildings, while 'elite' schools generally offer foreign curricula such as Cambridge International Exams or the International Baccalaureate.

Similarly, private HEIs are of highly variable quality. In some countries such as India, there is a core of private universities that are of regional or world standard, while many others are of lesser quality with poorly qualified teaching staff. Few private institutions outside the U.S.A. are research intensive knowledge-producing institutions. Private HEIs generally offer a narrow range of market-focused vocational programs such as business and IT and employ teaching staff from public universities on a part-time basis.

A feature of both the private school and higher education sectors is the phenomenon of for-profit education providers. These institutions come in a variety of organizational forms – sole proprietorships, franchises, or national/international chains of educational institutions. Some are publicly listed companies, while others are privately held. Examples at the school level include Beaconhouse Schools in Pakistan (120 schools with 70,000 students); The Educators (a franchise school operation also from Pakistan with 230 branches and enrolments of 75,000); Groupe Scolaire Loko (a Côte d'Ivoire-based company that operates high schools and tertiary education institutions offering a range of specialized training); SABIS® Schools (a Lebanon-based private school operator with 50 schools in 15 countries and 40,000 students); and Scholastica Group (a Bangladesh education venture with K-12 schools that enroll 5,800 students).

There are several examples of for-profit organizations at the higher education level. These include Laureate International Universities, a network of 20 campus-based private institutions in Europe, Latin America, and Asia that serve more than 215,000 students worldwide. There are many other examples of private for-profit HEIs in the developing world. These include Indian-based provider NIIT – the largest IT training provider in India; Limkokwing University of Technology, Malaysia (which has recently opened a campus in Botswana); North South University, Bangladesh; Centro Escolar University, Manila; Centre for Open Distance Education for Civil Society, Romania and TECSUP, Peru. A number of other for-profit providers, including

South African based Educor, the Indian JSS Mahavidyapeetha, and the Brazilian company Objetivo/UNIP operate educational institutions at both the school and higher education levels.

Recent years have seen an expansion and broadening of the private sector's role in the delivery of education in many countries. A key trend has been the emergence of more sophisticated forms of private involvement in education through public-private partnerships (PPPs). These include initiatives under which private operators are contracted to manage public schools, voucher programs, and school infrastructure partnerships. A number of other philanthropic and for-profit ventures are taking place. In February 2007, Orient Global, a Singapore-based private investment institution, announced the launch of a $100 million education fund which is investing in private education ventures in developing countries. In the U.S.A., several philanthropic foundations are partnering with 'charter schools' to identify and replicate successful delivery models.

The fortunes of the private education sector are very much country-specific and vary by education level. Some countries, e.g., Pakistan, have seen rapid growth in both the absolute size and share of private school and private higher education enrolments, while other countries (e.g. the Philippines) have witnessed the opposite trend with the private sector share of secondary and higher education enrolments falling from over 45 percent and 90 percent respectively in the early 1980s to 20 percent and 70 percent respectively now. Private universities are a significant and growing phenomenon in African countries (see below). In Tanzania, the number of private universities and enrolments increased by 143 percent and 500 percent respectively between 2002/03 and 2006/07.

Table 1:
Private and Public Universities in Africa, Various Countries

Country	*Number of private universities and colleges*	*Number of public universities*
Botswana	5	2 (1 with Letter of Interim Authority)
Egypt	7	18
Ghana	5 university status and 20 University Colleges	5
Kenya	13, plus 5 with Letters of Interim Authority	7
Namibia	1	2
Nigeria	34	27 Federal and 30 State
South Africa	79 with Full Registration and 8 with Provisional Registration	21
Tanzania	17	12
Uganda	23	5

Source: Compiled from the Websites of the national accrediting bodies.

The private education sector has grown virtually across the board in developed and developing countries. A big reason for this expansion is the inability of public finances to keep pace with the growing demand for higher education. Other factors include dissatisfaction with the quality of public education (i.e., large class sizes, teacher absences, and lack of books and teaching supplies), the existence of more modern and job relevant curricula and programs in the private sector, the politicization of public education, and favorable policy changes.

There are a number of reasons why governments are making greater use of private participation in education to assist in meeting their education policy objectives. One reason is that private involvement can help to increase the level of financial resources committed to the education sector, through for example, private philanthropic initiatives and the private financing of infrastructure. Other potential benefits of private involvement include:

- Supplementing the limited capacity of government institutions to absorb growth in school and HEI enrolments. Private resources can be (and often are) focused on providing additional inputs (e.g. textbooks, infrastructure, IT, training, and development) aimed at improving the quality of education delivered in government institutions.

- Opportunities for governments to support publicly funded students in private schools and HEIs – often at a lower per-student cost than in the public sector. Examples of such programs exist in several countries, including Pakistan, the Philippines, and Uganda.
- A mechanism to raise both the efficiency and quality of education delivery since studies suggest that private delivery of education can be more efficient than public delivery, when measured on a per-student basis.[3]
- Increased private involvement can bring new skills and knowledge – pedagogic, technical, and management – to all levels of education. The greater management flexibility enjoyed by the private sector means that it is much better placed than public schools to introduce curricular and program innovations, improved assessment methods, and modern teaching methods. Private organizations can also circumvent unnecessarily restrictive employment laws and outdated pay scales that limit the ability of public schools to hire appropriate staff and organize delivery in the most efficient and effective manner.
- The competition from increased private delivery of education can generate improved performance among both public and private schools and HEIs.

These benefits can only be realised if governments have clear and explicit ideas on how the private sector can contribute to their national education strategy. For this to happen, there will need to be continuing conversations with the private sector and a willingness by governments to understand its motives and ways of working.

[3] International *Finance Corporation (2001*) Investing in Private Education: IFC's Strategic Directions, *Washington D.C., p. 6.*

III. Regulatory Barriers to an Effective Private Sector

Why Regulate?

Governments have an obligation to ensure that their citizens receive a good education from whatever source it is provided. In the case of public sector schools, this means that mechanisms must be in place to ensure that teaching staff, facilities, equipment, and materials are of the best quality that can be provided with available funds. In the case of private sector provision the same principles apply, with the necessity of developing instruments of monitoring and control to ensure that provision of both public and private sectors are of the highest quality possible.

Regulation of private education must seek to ensure high quality delivery, while at the same time encouraging investment – particularly in developing countries where the need is so great and government resources are limited. Too often, government regulation appears designed to discourage private investment without any commensurate gain in the quality of education. A common feature of the regulatory regime is that government funding policies generally favor public provision over private provision, despite the adverse equity and efficiency impact this can have on the sector and the lack of any public policy rationale for such a distinction. Generally speaking, the regulatory and funding frameworks in many countries do little to provide an enabling operating environment that promotes growth in private education. Over the longer-term, this is likely to reduce both the quality and sustainability of the private education sector and the subsequent benefits that such provision might bring to the education sector of a particular country.

Governments are fully entitled to exercise rigorous checks and controls on those wishing to create private schools and HEIs and private entrepreneurs accept this. In particular, high quality education providers welcome effective regulatory frameworks – including Quality Assurance (QA) mechanisms – as they provide a guard against poor quality providers who can undercut the potential private sector market, especially where demand is less sophisticated than it could be. A regulatory framework that supports the private sector and assures the quality of private provision is also key to ensuring the longer-term sustainability – both economic and political – of the private education sector in developing countries. Market perceptions of the quality of private education are fundamental and can be easily damaged. Bad publicity about private providers that offer poor quality instruction can harm the reputation of the sector as a whole, affect its ability to be seen as a credible alternative to public providers, and lead to policy reversals from even sympathetic governments. This is particularly true in countries with recently established private education sectors.

Some Common Regulatory Barriers and Problems

The question at the heart of this study is "what is a reasonable form of regulation for governments to adopt?" A starting point for answering this is to look at the following examples of regulatory barriers that have been identified in various countries. These include:

- Confused or unclear national policies concerning the role of the private sector in the education system.
- Cumbersome and complex school and HEI registration processes that are less transparent and explicit than they should be, leaving institutions in a position of not knowing what documentation is required and how it should be obtained. [See example in Box 1].

Box 1:

Registering a Private School

A typical process for registering a school is often long and complex. Key elements in such a process are:

- An application for school registration is submitted through the District/Municipal/City Education Officer accompanied by several documents: (i) Inspection reports from the Public Health Officer and the Inspector of Schools, (ii) Minutes of the District Education Board in which the application was discussed, (iii) Certification of registration of business name, (iv) Names of school managers and their education certificates and (v) Proof of land ownership.
- Once the Registrar receives the application, it is presented for evaluation to the Ministerial Committee on Registration of Schools.
- If approved, the application is forwarded to the Ministry of Education for authorization.
- The Minister issues authorization to operate.
- The Registrar issues a certificate after the final inspection.

Source: Cited in Verspoor, Adriaan (2008) The Power of Public-Private Partnership: Coming Together for Secondary Education in Africa, World Bank, Washington, D.C.

- Imposition of unclear and subjective criteria and standards to qualify for registration. For example, in one country, the final decision on registration is made by the Ministry of Education, which then applies unknown geographical and political criteria to the decision.
- Outdated criteria for accreditation and annual university monitoring that emphasize the number of books and journals available in hard copy and take no account of access to electronic materials. Some requirements expect every student to be at a library desk rather than using a personal computer to access materials from various places on campus.
- Difficult processes that provide officials in the accrediting body with considerable discretion in assessing applications for institutional registration, thus leading to inconsistent application of existing rules and leaving significant scope for arbitrary (and possibly corrupt) decision-making.
- Prohibition of foreign-owned private education institutions and barriers to repatriating surpluses and profits.
- Limits on the ability of private education institutions to set tuition fees at market rates and their ability to operate as for-profit entities.
- Criteria relating to financial reserves, land area, and infrastructure on private institutions (e.g., requirements that private institutions own their own land/buildings, deposit financial security ‘bonds’, and meet detailed specifications for books and equipment).
- Restrictions on political or religious aspects of curriculum/program content and lengthy curriculum/program approval processes – up to 3 and 4 years – on private institutions. [See example in Box 2].

Box 2:

Curriculum Controls in Vietnam

In Vietnam, the Ministry of Education and Training has issued guidelines on foreign cooperation and investment in education and training.

Article 7 (4) of these guidelines states that “students who are Vietnamese citizens and who are studying at an educational establishment with foreign capital being a college or a university, in addition to completing the particular training program of such establishment, must study and obtain a full diploma in Marxist-Lenin philosophy, Marxist-Lenin political economy, scientific socialism, history of the Communist party of Vietnam and ideology of Ho Chi Minh.”

Even though the foreign provider can liaise with a local institution to offer such training the time required for the diploma will restrict the syllabus of the university.

These guidelines were issued after The Royal Melbourne Institute of Technology (RMIT) was invited to set up a campus and that institution is therefore not bound by them.

- Quotas applied to the types of students that have to be admitted (such as the Indian law concerning the proportion of enrolments from disenfranchised castes).
- The requirement that one or more places on the private university governing body be available for nominees from the Ministry of Education and that the appointment of a Vice Chancellor require government approval.

There is much progress to be made in improving regulatory frameworks for private school education in Africa, as measured by the *African Private Schools Investment Index*, which ranks 36 African nations according to their attractiveness for private investment in education across six categories and 39 indicators. The highest ranking country – Mauritius – scores only 67.8 out of 100 on the APSI Index, while the lowest ranking country – Chad – scores only 29.4.[4]

[4] School Ventures (2008) *The African Private Schools Investment Index (APSI) 2008*, Washington D.C. www.schoolventures.com.

IV. Some Propositions Concerning Possible Good Practice in Regulation

Having identified some regulatory practices that present barriers to private sector development, we can now take a positive approach and suggest some propositions for governments to consider. There are eight areas in which Good Practice Propositions can be set out.

A key to encouraging the development of private education in developing countries is to implement a clearly articulated enabling policy and regulatory framework. This framework should create the conditions under which private schools and tertiary education institutions can operate effectively and efficiently, while at the same time ensuring that education is delivered to a high standard. The broad outlines of such a regulatory framework are highlighted below in the Propositions.

Proposition 1. Provide a Sound Policy Framework for the Operation of the Private Education Sector.

In many countries, the initial culture is hostile to private providers of education, particularly those that are for-profit. Governments can encourage the expansion of private education by recognizing the important role it can play. This will involve promulgating a positive policy that welcomes private providers and makes it clearly known to all those who might wish to establish new private schools or HEIs. Ideally, such a policy should define the place of private providers in the national long-term education strategy, so as to provide potential investors and partners with the confidence to invest. This strategic thinking also needs to be placed in the context of the national agenda for educational development and define what part the private sector should play in it. In some countries, this is done with an explicit recognition in legislation. For example:

- One of the underlying principles of Côte d'Ivoire's *Loi 95*-696 is that education is a public service, but that private institutions may be granted the right to offer that public service.
- Senegal recognizes the role of the private education sector in *Article 3* of *Loi 91-22*, the country's overarching education legislation.

Such explicit recognition of the role of the private sector can help to encourage its expansion by building political and public support for private involvement in education, thereby reducing the likelihood of sector policy reversals and reducing uncertainty for investors. This is especially important, given that education is seen as a ‘social’ rather than a ‘commercial’ activity and hence more susceptible to populist anti-private sector policies. In Mozambique, the private sector is seen as a key partner in the policy of helping to scale up the country’s higher education enrolments from a very low level and the government pays private providers at an agreed rate per student.

Two other aspects of a favorable policy are important: the need to ensure that all levels of government (municipal, provincial, etc) are committed to welcoming the private sector and have policies that fit with the national strategy, and a tacit acceptance that what is being proposed is a partnership in which private investors are collaborating with government in helping to achieve national goals. Such a partnership can be exhibited by involving the private sector (or its representative bodies) in debates and discussions about future education policies.

Proposition 2. Introduce Clear, Objective, and Streamlined Criteria and Processes for Establishing and Regulating Private Education Institutions.

As discussed above, many countries impose rules that limit the scope for new providers to enter the education marketplace. The consumer protection objective of many of these regulations is laudable since minimum standards can help to ensure the quality and safety of private sector provision and help protect consumers from unscrupulous operators. However, these potential benefits must be balanced against possible downside impacts. Poorly designed registration criteria for private education institutions can have the opposite outcome to what is intended. Instead of resulting in more education access, higher quality and safer schools and HEIs, lengthy and complex registration processes and onerous regulatory regimes may reduce access by deterring new providers or increasing their costs to such a degree that these institutions become unaffordable to their clientele. Alternatively, such regulation may push private schools and HEIs to operate outside the law as unregistered or ‘clandestine’ providers, thus leaving the government with fewer levers to protect students and families – particularly those on low incomes.

Decisions regarding institutional registration and government funding need to be based on qualitative and quantitative criteria, rather than on whether an educational institution is for-profit or not-for-profit. In addition, the registration criteria for new schools and HEIs have to be designed so as not to unduly restrict the entry of new institutions into the marketplace or remove the opportunity for fresh and imaginative approaches.

Regulatory requirements will encourage the establishment of new institutions if they are:

- Objective and measurable so as to minimize discretion and limit the scope for corruption.
- Openly published so that they can be accessed without delay by potential providers.
- Output-focused (i.e., designed to ask open questions about the standards proposed rather than impose fixed national norms or ratios) so as to allow for flexible and diverse delivery approaches.
- Applied consistently across various levels of government, where registration processes are devolved.

Assistance in the form of guidebooks on the registration process can help to ensure that the rules are clear to prospective applicants. A number of regulatory bodies provide a full description of the process for applying for registration and accreditation on their Websites, together with all the necessary application forms to assist potential providers. Multi-stage registration processes can be applied to new HEIs (and, to a lesser degree, for schools) to allow for better management of the establishment process and enable providers to develop capacity prior to being assessed against the relevant registration criteria. [For some African examples see Box 3].

Governments can also link different levels of registration or accreditation to government funding or reduced regulation (e.g., the ability of providers to set their own curriculum) so as to ensure that such incentives are confined to providers with a proven capacity to perform.

Registration processes can be unduly drawn out. In order to avoid this, accreditation agencies in several countries set themselves performance targets and impose limits on the time it takes to respond to requests for information and on the timeline for the accreditation process. In some cases, institutions are deemed to be registered once a certain period of time has elapsed, irrespective of whether they have received official notification from the regulatory authority. Ideally, all decisions on approval should be devolved to one agency but, in some countries, national strategic factors may require a two-tier system in which the Ministry of Education makes the final decision.

Box 3:

Examples of University Establishment Processes in Three African Countries

Since the establishment of a new university requires considerable capital and a long-term horizon for planning, most regulatory bodies have developed processes that have several stages. A typical (but committee-heavy) example is that developed by the Commission for Higher Education in Kenya, which has the following stages:

- Applicants complete a form outlining their proposal. This is assessed by the Commission's various committees and a Letter of Interim Authority is granted, allowing the applicant to set up a governing body and advertise for and enrol students.
- After three years, the institution submits an Inspection Report to the Commission. This is then reviewed and, if everything is satisfactory after further inspections, a Charter is granted by the Kenyan President.
- Three years after the award of a Charter, there is a re-inspection, based on a self-evaluation questionnaire.

The Ghanaian National Accreditation Board publishes a Roadmap to Accreditation on its Website, which has two stages: Institutional Authorisation and Program Accreditation. The first stage requires a business plan to be completed, while the second involves visits by academic panels. Once these hurdles have been crossed, the university must then seek affiliation to operate under the supervision of a degree awarding institution for at least four years. Only then after a further inspection does the process of applying for a Presidential Charter begin. Five institutions have cleared all these hurdles.

In Tanzania, there are three stages to the process, all under the wing of the Tanzanian Commission for Universities (TCU): a TCU Certificate of Provisional Registration, a TCU Certificate of Full Registration, and finally a TCU Certificate of Accreditation. These are clearly set out on the Commission's Website.

Private sector organizations can play a greater role in the registration process. They can be given a role in registering private schools and tertiary education institutions. There are a number of examples of this at both the school and tertiary education level, including in Cameroon (schools), the Philippines (schools and HEIs) and U.S.A. (HEIs). For example, in Cameroon and South Africa, private school associations help prospective operators prepare the application to open a school, carry out initial reviews of the application (including site visits), suggest improvements, and make a recommendation on whether the application should be accepted.

Another example is the Accrediting Association of Seventh-day Adventist Schools, Colleges, and Universities, which accredits all tertiary and graduate educational programs and institutions operated in the name of the church.

Private institutions recognize the need for annual review and monitoring after the initial accreditation, as long as this is non-intrusive and focused on factors relating to the quality of education provided. For example, most would accept an accreditation service that assessed new academic programs until the institution was deemed to have an effective internal system (although government might wish to limit the numbers of masters and doctoral programs in some areas at the tertiary education level), but would prefer an external quality assurance (QA) regime with a "light touch" that relied on self-assessments and occasional review visits by suitably trained external assessors (see Proposition 7 below). In terms of information, the routine reporting of statistics on students, staff, finances, and the submission of audited accounts to an accreditation body or to government is accepted as a necessary obligation.

Proposition 3. Allow For-Profit Schools and HEIs to Operate.

Some countries restrict the ability of for-profit education providers to operate. Others allow for-profit institutions to operate, but limit the payment of government subsidies to not-for-profit schools or HEIs. The latter is the case in Pakistan where the government allows private for-profit HEIs to operate, but limits financial incentives to institutions that are not-for-profit. Between 1991 and 2001, the proportion of enrolments in Pakistani private schools – the bulk of which are secular – rose from 0 to 6 percent among the rural poor and 9 to 18 percent among the urban poor. For the country as a whole, nearly 10 percent of poor children were in private schools.

Limiting the ability of for-profit schools and HEIs to operate (or to receive government subsidies) is often seen as a means of ensuring that securing profits is not placed ahead of the provision of quality education. While some providers no doubt do place profit ahead of quality education, these concerns need to be weighed against the potential benefits of allowing private for-profit schools and HEIs to operate, including increasing access for both the poor and non-poor, spurring innovation, and bringing new management, pedagogical, and technical skills into the education sector. The introduction of effective quality assurance (QA) and other regulatory mechanisms can provide governments with the assurance that institutions of all types – including for-profit ones – are meeting the expected standards.

Proposition 4. Allow Private Schools and HEIs to Set Their Own Tuition Fees.

Many countries and jurisdictions, including the Ghana, India, Philippines, and Vietnam either limit or attempt to limit the level of tuition fees charged by private schools and/or HEIs. The aim is laudable – to ensure that private schools and HEIs remain affordable to a wider group and preventing price racketeering by private institutions. Again, these objectives need to be weighed against the potential downsides of such controls – that they may limit investors' interest in establishing private institutions, reduce access to much needed investment capital, and probably reduce the level of quality delivered by private schools, given that they must operate within a much tighter budget than if fees could be set at levels that recover costs. The latter may be particularly important in the case of schools or HEIs seeking to employ (more expensive) foreign teaching staff. Even where tuition fee limits exist, but are not enforced, they may have adverse effects on investment intentions to the extent that they create an uncertain environment for long-term investments. Other policies – such as funding targeted at poor but able students, effective QA, and policies that promote competition – may offer better alternatives for governments seeking to meet both access and quality goals.

There are, however, instances where it may be perfectly acceptable for governments and private sector partners to agree to fix tuition fees. In particular, many PPPs involve the government and private sector negotiating the tuition fee (if any) that can be charged as part of a contractual arrangement between the government and the private sector providers for the delivery of education. In such cases, the per-student subsidy is more likely to be set at a level that reflects the cost of delivery and provides a sufficient return on investment for the private provider. For example, schools that participate in the Punjab Education Foundation's (PEF) Financial Assistance per Child Enrolled Basis (FAS) program are paid a government subsidy of Rs. 300 per enrolled student per month and cannot charge tuition fees on top of that amount.

Proposition 5. Provide Incentives and Support for Private Schools and HEIs.

A key question for governments is the extent to which private education needs positive incentives and support. For example, they can introduce investment incentives (in money or in kind) and include the private education sector as a target sector for the country's investment promotion agency. Other common incentives include direct financial subsidies for the installation of utilities and educational infrastructure, tax holidays, customs duty abatements, and the provision of land for no charge or at discounted prices or rent. [See example in Box 4]. The latter can play an especially important role in encouraging private providers in urban centres in developing countries where available land is expensive. In Vietnam, the government's support to RMIT Vietnam is financial: if it makes a surplus, there is a tax free period of 4 years, followed by a regime at 5 percent for another four years, after which taxation will be imposed at 10 percent. Private investment can also be encouraged through the facilitation of work visas for foreign teachers, management, and technical staff – often a difficult task.

Box 4:

Pakistan: A Supportive Framework for Private Tertiary Education Institutions

The private higher education sector in Pakistan has grown considerably since the late 1990s. In 2005/06, there were over 61,000 students enrolled in 54 private institutions, representing 23 percent of higher education enrolments. Between 2001/02 and 2003/04, private enrolments grew by 40 percent, while the number of private institutions grew from just 6 in 1994/95 to 54 in 2005/06.

Since 2006, the Higher Education Commission (HEC) of Pakistan has introduced several regulatory and funding reforms to increase the quality of private provision and promote growth in private higher education. These include (i) a tax holiday for private HEIs, (ii) provision of land for the establishment of new private institutions, (iii) payment of grants for the establishment/expansion of private institutions and the establishment of new departments, (iv) payment of matching grants for digital library access to selected journals and international bandwidth for Internet access, (v) matching grants for private HEIs hiring foreign faculty and (vi) financial assistance for private institutional researchers.

These incentives are available to high quality private HEIs that are not-for-profit and meet various infrastructural, staffing, and other requirements.

Source: Higher Education Commission, Pakistan

Governments can also provide ongoing operational support to the private education sector by, for example, introducing funding systems that provide financial support, either to institutions or schools. Such support can include the provision of subsidies to private schools and HEIs, loans to students on the same basis as those at public HEIs, research grants for private university researchers, scholarships for school and university students and voucher programs. The extension of financial support to private sector students and institutions can recognize the complementary roles that the government and private sector can play in the education sector. Support to offset the costs of tuition provides a useful means of overcoming a key issue facing private schools and HEIs, namely that the fees they need to charge can make them unaffordable to a significant segment of the population.

A further example can be found in the Punjab province of Pakistan, where the Punjab Education Foundation operates the Foundation Assisted Schools Program, a scheme that pays private schools a subsidy for each student they enrol. Schools are located in low-income areas and must meet performance benchmarks in order to remain in the program. The program has grown from just 20,000 students in 54 schools in late 2005 to more than 500,000 students in 1,157 schools today.

Proposition 6. Provide Parents and Students with Information to Help Them Select Quality Private Education.

A characteristic of the private education sector in many countries is the wide variation in quality across private providers. In many instances, regulatory authorities, parents, and students have little information on the size and nature of the private education sector, or on the quality of education being delivered in the sector. By contrast, some countries publish examination scores and other measures of performance, while others have adopted innovative techniques to provide consumers with information on the performance of schools and HEIs.

Well-informed consumers and regulators are an important building block in a more liberalized regulatory framework for education. Providing students and families with information on the quality and performance of private providers (and indeed public providers as well) can offer a useful mechanism for improving the functioning of the private sector. One way of achieving this is to place some basic requirements for disclosure on education providers. This could involve:

- Requiring institutions to disclose information to regulators and the general public as a condition of registration.
- Introducing a system of publishing a number of performance indicators, including quality of facilities, programs offered, class sizes, fee levels, teacher qualifications and exam scores; and
- Publishing reports by independent review/accrediting agencies about the performance of private schools and HEIs.

An example of an agency that publishes a lot of material relating to private universities is the Tanzania Commission for Universities. Its Website contains comprehensive and up-to-date statistics on student and staff numbers and academic staff qualifications for both public and private institutions. In addition, the site contains a full and clear description of the registration and accreditation processes together with downloadable forms for investors to use for their applications.

Proposition 7. Establish Quality Assurance (QA) /Monitoring Processes.

An essential function to support a sustainable private education sector is an independent QA/monitoring mechanism to evaluate the performance and program outcomes of private (and public) education providers. Such a system could provide independent, unbiased assessments of the performance of educational institutions in both sectors, using the same standards and criteria for both. Well-designed QA mechanisms can provide valuable information to consumers, providers, and government officials. There are many mechanisms used around the world to assure quality – both in the private and public sectors. For example:

- Countries such as Kenya, Ghana, Tanzania, Indonesia, and the Philippines operate accreditation systems at the higher education level;
- Various public and private organizations (e.g. the U.K.-based CfBT Education Trust, the Education Review Office in New Zealand, and the Quality Assurance Agency in the U.K.) are contracted to review the performance of schools operating in other countries;
- The Sindh Education Foundation in Pakistan operates two programs focused on raising the quality of education in low-fee private schools;

- In South Africa, the Independent Schools Association of South Africa provides its 650 members with a range of services related to quality assurance such as annual benchmarking, training for those about to be accredited, and courses for all levels of staff.

QA mechanisms are too often based on compliance to standard processes and systems. Instead of improving the quality of education delivered, they focus on red-tape and enforcement of rules that add little to a child's educational experience. A reasonable balance needs to be found that meets government requirements but is not overly onerous for providers.

Proposition 8. Develop the Capacity of Government to Implement Policy and Manage Private Providers.

A key to the successful design and implementation of a policy for private education (whether based on independent providers or a network of PPPs) is to ensure that the government agency that is responsible for regulating the private sector has both the information and skills required to design, develop, and manage functions such as institutional accreditation/registration, QA processes, monitoring, and incentive programs. A range of skill sets can be required for successful regulation and implementation of private sector programs, including educational and pedagogical skills, contract management, economics, and finance. This may imply that staff will have to be seconded into a government agency from the educational professions.

Research for this paper found evidence of many government agencies that were understaffed and resourced by people with skills and competence levels below those they were monitoring or regulating. This led in the eyes of some providers to long delays and ill-informed judgements. One option for resolving this common problem would be to set up dedicated, cross-sectoral, professional units to support the implementation of private education policy, with responsibilities ranging from disseminating information and preparing guidelines to designing and implementing transactions. Another solution would be to contract out much of the routine monitoring, QA and sector management functions to charitable organizations or private sector companies, as is happening in many of the Gulf States. For all these solutions it will be important not to overlook the governance arrangements over the regulatory and accreditation functions, as there will always be some potential for fraud or corruption in the relations between private and public sectors.

V. A Role for International Organizations

International organizations, such as the World Bank, the International Finance Corporation (IFC), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and others can play a vital part in promoting quality private education. They can play several different roles, such as:

- Assisting governments to help clarify their policies towards private education. This would cover the potential of private sector involvement and illustrate how entrepreneurs can best be regulated or controlled, possibly following the guidelines as outlined in the Propositions above.
- Providing 'early stage' equity and loan capital to catalyze investments in the private education sector. Generally speaking, it is difficult for entrepreneurs to access investment capital with a 5-7 year time horizon to establish private schools and tertiary education institutions. In many countries, private equity is not available or financiers are not interested in education as an area for investment.
- Helping to raise the profile of the private education sector as an investment target.
- Working with private sector banks to mitigate some of the investment risks in the sector.
- Assisting countries to create enabling and balanced regulatory frameworks of the kind described above.

Improvement of public sector schools and tertiary education institutions has been the primary focus of most education projects of international organizations. As Sosale (2000) has shown, World Bank lending for education projects totaled $4.9 billion for the 1995-2000 period, yet only about 11 out of 70 projects (around 15 percent) during that period included a private sector component – and only about half of these projects were at the primary or secondary education level.[5] There are some exceptions to this picture. The most notable is IFC, a member of the World Bank Group. Over the past five years, IFC's education portfolio has involved direct investment of $228 million and has helped to leverage $970 million from other investors and sponsors. The German aid agency GTZ also provides considerable capacity-building assistance to private vocational institutions in Uganda. Other isolated examples exist, such as the Asian Development Bank's support (with IFC) in helping to establish RMIT International University Vietnam. Another example is found in Mexico, where the World Bank supported an innovative

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[5] Sosale (2000) *Trends in Private Sector Development in World Bank Education Projects*, The World Bank, Washington D.C.

$100 million project that financed the creation, implementation, and evaluation of a private student loan program that offered financial assistance to students attending private universities.

Raising the quality of private provision is as important as strengthening the capacity of education authorities. This will often involve providing access to capital, enhancing financial management, and improving instructional delivery and institutional leadership. Governments may have to provide financial support to communities to help them expand and improve their institution, possibly through matching grant schemes. IFC has, for example, funded operations that provide access to capital for educational entrepreneurs in Ghana and has recently launched a

Box 5:

Micro-Credit Facilities for Education

Private schools in Sub-Saharan Africa have limited access to medium and long-term capital for investments. Few local banks lend to private schools and mostly only for very short durations. Many schools also require technical assistance to improve their financial, managerial, and administrative capabilities, and to improve operational efficiency.

The IFC Africa Schools Program, an integrated investment and advisory services program, seeks to address these constraints by encouraging local banks to provide local currency financing to private institutions for durations suitable for capital investments in education. The program helps partner banks develop education business lines. In addition, banks already familiar with the education sector can grow their education portfolios more quickly. The program consists of $50 million of risk participation facilities to cover education sector loans and an advisory services program of $5 million.

The investment component supports the provision of school loans originated by partner banks. These loans are used to finance construction and other capital expenditures and purchase educational materials. To be eligible for financing, schools will need to meet the partner bank's underwriting criteria. The program focuses initially on 10 countries, which have high private sector enrolments.

Source: IFC (2008)

micro-credit program in Kenya that targets private school operators and includes a technical assistance facility. [See example in Box 5].

Another example of support for private sector capacity development is the Promotion of Private Training Providers Program (PPTP) in Uganda, which has been supported by the Kreditanstalt für Wiederaufbau (KfW) since 1999. The objectives of the PPTP program are to support the sustainability of training centers, improve the quality of training, and increase the number of trainees in private institutions. The program provides a range of support, including management, pedagogical, and technical training; construction of classrooms and workshops; provision of technical equipment such as tools and machines; training materials such as textbooks; and the implementation of tracer studies. In order to be eligible for PPTP, a provider must be private, must have been in operation for at least two years and must own the school or have a long-term lease on its space. During its first two phases, 59 private institutions were assisted under PPTP.

VI. Conclusion

This discussion paper has provided a brief overview of the regulation of the private education sector. It has also identified a number of potential regulatory barriers to growth and set out some suggested steps forward for developing and then managing policy frameworks that would promote and regulate private participation in education. Finally, it has briefly examined the role that international donor organizations such as the World Bank and IFC can play in promoting private participation in education.

Private education clearly plays an important – and growing – role in many countries at both the school and tertiary education levels. The expansion of private education can bring many benefits to governments and particularly to those struggling to meet Millennium Development Goals (MDGs), including increased access, more innovation, greater equity, and increased efficiency in delivery. This expansion can be fostered by the creation of a policy and regulatory framework that encourages and promotes the sector.

It is clear from the evidence received during this review that some governments make it far easier for investors and owners of educational institutions to operate than others. What then can one recommend as good practice in regulatory policy for governments as a whole? The overall principle is that governments must be enabling rather than controlling. Yet at the same time governments are entitled to exert sufficient control to manage private sector growth appropriate to the national context. The ideas set out in the eight Good Practice Propositions might provide a starting point for them to consider. A regulatory framework of this kind will create the conditions under which private providers can operate effectively and efficiently and deliver what both the government and parents wish to see – a quality education.

International donor organizations have an important role to play in advising governments about the contribution of private providers as well as helping to build the capacity of the private education sector and their counterparts in public regulatory agencies. Private participation in education is clearly no panacea but, if sensibly regulated and suitably encouraged, it can provide governments with a highly effective and efficient way of meeting their educational goals.

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Provision of education by private providers has seen tremendous growth over the past decade and it is anticipated that it will continue. Governments are increasingly faced with the challenge of meeting the demand for publicly funded education and realizing they are unable to respond adequately. Thus, there is recognition that the private sector has a critically important role to play in helping the government achieve education targets. Regulatory policies and frameworks are evolving to ensure that private providers are compliant with national accreditation and quality standards. Some countries have considerable experience of working with private providers while others have less. The authors of this publication have drawn upon international examples of regulatory policies for private providers and have set out a series of 'propositions for good practice' for national policy makers to consider as they address the 'evolving regulatory context'.