

LAW ANALYSIS 

The Private University Act, 2010

Would the barking dog bite?

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THE footstep, foothold and stronghold of the Private Universities in the filed of higher education is now a fait accompli. Today it requires no recognition but a critical appraisal. Well, then how to see it? A glass half empty? Or a glass half full? Some may prefer the first, while others may choose the last. But I (with my recent past three and half years' fellowship with private universities) would prefer a more specific answer: it is one-third full leaving another two-thirds empty!

The glass is 1/3 full because these (around 60) Universities are imparting:

- higher education to the students (around 95% of total students passing HSC) who would otherwise remain unattended by the public education machinery;
- politics and session jam free education; and
- responsible academic behaviour on the part of the faculty members ensured through the prism of continuous evaluation.

The glass is 2/3 empty because:

- bulk of the universities (except a few) are still lagging behind in quality education;
- there is a substantial accusation that some of these universities are still 'selling' certificates;
- the so called Evening Programs are the most attractive profit zones harboring the grossest irregularities;
- infrastructural and logistic arrangements are simply pathetic (except in some 'rich' universities);
- in terms of quality, fairness and accountability, the 'branch campuses' pose a nightmare;
- 'research' as a component of University education is, subject to a few exceptions, almost unknown;
- most unfortunately, the spontaneous interference on the part of the sponsors ('owners' they are commonly called) in the administrative and academic affairs strikes at the root of the very concept of a

'University'. Sometimes a private university sponsored by a status hungry business tycoon resembles one of his many other private limited companies or at best a rural private college established in memoriam of the wife of a petty millionaire!

Given the circumstances, avoiding direct stance against the concept of Private University as a whole, some prescribe care coupled with a gentle admonition. The parliament has passed the Private University Act, 2010 which is professed to medicate some of the diseases beyond treatment of the repealed Private University Act, 1992 and Private University Ordinance 2008.

Establishing a Private University: A Private University may be established with a provisional certificate for initial seven years (Section 7(2)). This may be extended for another 5 years (Section 11(2)). Failure to apply for extension of provisional permission within first seven years or for permanent permission within maximum 12 years may result in the closure of admission (Section 12(1)). Most of the Private Universities are now running with provisional permission and have even failed to apply for permanent certification.

Regarding the permanent campus: For a permanent certificate a Private University needs, among others, a permanent campus established on at least 1 Acre landed property in any Metropolitan area or 2 acres landed property in other areas (Section 9(1)). This means that a Private University must find out its permanent campus within maximum 12 years of its commencement. Most of the private universities are unacceptably lagging behind in this regard.

On the 'branch campuses': Sections 3(3) and 13(2) of the Act prohibit establishment of Branch Campuses, though there may be several sister universities with a common name (Proviso to Section 5). In that case the Private Universities willing to maintain their already established



branches may opt for the establishment of independent administrations comprising separate Vice Chancellors, Syndicate, Senate and Academic Council, etc.

Locating the campuses: The campuses beneath or above commercial complexes, garment factories or even grocery shops mark our intellectual insolvency. Apart from the branch campuses, there is a tendency to establish as many campuses as possible in the same city, which are not less deficient than the branch campuses in terms of quality assurance. To check this unhealthy tendency, section 13 of the Act provides that seats of the campuses must be specified in the provisional or permanent certificate. Section 3(4) of the Act prohibits its establishment of university campuses in certain places to be specified by the government.

Making Private University affordable: The competitively sky rocking tuition fees of the private universities has put them high above the reach of students with modest and middle class background. Section 42 takes care of this by requiring the tuition fee structure to be in consonance with the 'socio-economic standard' of the country. The University Grants Commission

(UGC) is given a consultative status in this regard. However, the 'socio-economic standard' being a relative and vague term, poses no immediate 'threat' to the current trend. Again, Section 9(4) requires reservation of at least 6% seats for freedom fighter's wards and poor students coming from rural areas. These students would enjoy full tuition fee and other fees waiver.

Overseeing the academic affairs: Section 13(3) of the Act requires permission of the UGC to establish a Department or Faculty in a particular campus. Section 24 requires department-wise Syllabus Committee comprising external experts. Though these provisions form part of the day to day administration of UGC, there are substantial allegation of corruption and bribery within the UGC itself, in approving courses, syllabus and other academic curricula.

On the part timers: An unhappy feature that puts a private university under serious challenge is the running of the courses by part-time teachers basically drawn from the public universities. The 2010 Act has paid due attention to the part timers. Section 35(3) has put a ceiling on the part-timers which should not cross 1/3 of the total numbers of

permanent faculties. Section 35(4) requires a 'No Objection Certificate' to be submitted by a part time faculty from his original workplace. Some Public Universities themselves have a rule requiring their faculties to take prior permission for any part time engagement and submit more or less 10 per centum of their income there from. However, public university authorities have been generous enough to apply the rule in flexible manner. Now it remains to be seen how section 35(4) of the Private University Act improves the situation and ensures the accountability of the honourable teachers.

Again, the 'Resource Persons' from non teaching professions are not included in the 1/3 limit. Exactly what does the term 'resource persons' means is not clarified in the Act. If they mean experts from the practical field occasionally coming to the classes to give a touch of reality in the world of books, this is no doubt a progressive provision. But we know the reality. We know a lot of Civil Servants and Judicial Officers 'serving' as part time faculties and conducting full-swing courses in different private universities. Critiques often say these 'resource persons' serve dual purposes help maintain a good 'link' with the power base of the state and come to 'aid' in times of administrative or legal difficulties faced by the university concerned. With the 'part time' faculties, 'resource persons', 'advisers' and 'coordinators' you can manage things for the time being. But this is never going to give the private universities an institutional shape, though the sponsors like to point at Oxford and Cambridge as the best examples of private universities leading from the front.

Job security etc: Most of the private universities deliberately lack any Service Rules so that the teachers and employees may be treated in whatever manner they like. Job security, academic freedom and non-intervening working conditions are a far cry there. It is quite humiliating that in some universi-

ties the administrative officers 'police' the teachers! I know even of an Honourable Vice Chancellor who was 'instructed' over phone not to come to office the next day! This is why the young and promising teachers of the time are not ready to take 'private university teaching' as a profession. This is still too dangerous a risk to take. All coming here come as transit birds to stay in the platform to catch the train. Sections 16 and 43 of the Act require the copies of service rules, rules regarding the creation of posts, appointments and pay scale to be submitted to the UGC. In absence of adamant political commitment these provisions would ensure nothing more than a mere formality.

The Accreditation Council: The greyest area in the Act is the proposed Accreditation Council. Given the huge workload of the UGC and its infrastructural insufficiency to oversee the activities of the private universities, an Accreditation Council seems befitting. As per Section 38, the Accreditation Council would be established by the Government and its functions and powers shall also be determined by the Government by Rules. It will be interesting to see how the Government exercises its rule making power to establish a tiger having claws and teeth.

Doubted aspirations! The Private University Act 2010 wants to see 'non profitable' private universities (Sections 44 and 45) devoted strictly to the cause of education and research which is a lofty dream indeed. Private Universities are the realities of an era of deregulation where education is not a mere virtue rather an essential commodity. Naturally the profit seekers will explore opportunities in a 'business' that earns wealth as well as status and their political power bases are not too weak. Now let's see, how aspirations of education flourish!

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 **GOOD NEWS**

Iraqi police officer held without charge is freed

AMNESTY International has welcomed the release of a former police officer detained without charge in Iraq for over two years because he was suspected of having links to armed groups.

Qusay 'Abdel-Razaq Zabib was freed from a police station in Tikrit, in the north of Iraq on 30 December, more than a month after an order for his release had been issued.

Speaking to Amnesty International, Qusay 'Abdel-Razaq Zabib confirmed his release without charge and said that he had not been tortured or otherwise ill-treated while held at the police station in Tikrit in recent weeks.

"While Qusay 'Abdel-Razaq Zabib's release is welcome news, it is long overdue," said Malcolm Smart, Amnesty International's director for the Middle East and North Africa.

"After more than two years in detention without facing any charge or trial, it was high time that he was freed and reunited with his family."

Qusay 'Abdel-Razaq Zabib worked as a police officer in the village of 'Uwaynat, near Tikrit, at the time of his arrest by US forces in July 2008. He was suspected of collaborating with armed groups opposed to the Iraqi government and the presence of US forces in Iraq.

He was detained by US forces until March 2010, when Camp Taji, the prison in which he was held, and its inmates were transferred to the control of the Iraqi government.

the Iraqi authorities that he should be released. However, he was detained by the Iraqi authorities until November 2010, when he was transferred from Camp Taji to a police station in Tikrit.

It appears that Qusay's transfer to the police station was in preparation for his release, but he was held there for several weeks.

Initially, it was said that the Anti-Terrorism Directorate in Najaf was looking for an individual of the same name but his family were able to obtain a certificate stating that Qusay 'Abdel-Razaq Zabib was not the man wanted by the Directorate.

Amnesty International was concerned that he was at risk of torture or other ill-treatment while detained in the police station, and that those holding him might have been doing so in order to obtain a ransom.

Qusay 'Abdel-Razaq Zabib's release comes after Amnesty International gave particular attention to his case (as representative of many similar cases of prolonged detention without charge or trial in Iraq) in its campaign against such abuses which was launched in September 2010.

Qusay 'Abdel-Razaq Zabib thanked Amnesty International for campaigning on his behalf and said that he plans to undertake training at a police academy in Baghdad and return to his former role as a police officer.

Source: Amnesty International.

HUMAN RIGHTS MONITOR 

Iran sentences human rights lawyer



A human rights lawyer has been sentenced by the Iranian authorities to 11 years in jail for crimes that include "activities against national security" and "propaganda against the regime," family members confirmed Monday, January 10, 2011. In addition to her jail sentence, the lawyer, Nasrin Sotoudeh, was barred from practicing law and from leaving the country for 20 years, her husband, Reza Khandan, said in a telephone interview.

Mr. Khandan said the main charges against his wife, who is well known here for her work defending women and children, stemmed from interviews she gave to foreign news outlets, even though "there is nowhere in the world, not even in Iran, where speaking to foreign media is a crime."

The mother of two young children, Ms. Sotoudeh was arrested in September and has spent most of the time since her arrest in solitary confinement. She is thin and weak after conducting several hunger strikes to protest harsh treatment, her husband said. "However," he added, "her spirit is strong."

Ms. Sotoudeh said she was told by her interrogators that her sentence was guaranteed to be more than 10 years, Mr. Khandan said, leading her to

believe that the ruling against her was politically motivated.

"This shows that the court itself did not play much of a role," he said. "We hope that the appeal court will come forward and issue justice."

Mr. Khandan said that five years of the sentence were for accusations that Ms. Sotoudeh

was a founding member of the Defenders of Human Rights Center, an association of lawyers led by the Nobel Peace Prize winner Shirin Ebadi, who left Iran in the aftermath of the disputed 2009 presidential election and subsequent crackdown on opposition figures.

"While membership in the

center is not in any way a crime, she was, in any case, not a member," Mr. Khandan said, adding that his wife's defense lawyers would appeal the sentence.

Two other lawyers, Mohammad Seifzadeh and Mohammad Ali Dadkhah, have been convicted of similar charges in connection with their roles as founding members of the center, which the Iranian authorities were reported to have closed down last month. Mr. Dadkhah was released on bail in September after more than a year in prison, while Mr. Seifzadeh was sentenced in October to nine years.

The Iranian authorities have often accused human rights lawyers of colluding with foreign governments to undermine the country's Islamic government. Most recently, Mohammad Mostafaei, a lawyer representing Sakineh Mohammadi Ashtiani, an Iranian woman convicted of adultery and sentenced to death by stoning, fled to Norway after coming under pressure from the authorities after he helped expose Ms. Ashtiani's case to the international news media.

A second lawyer for Ms. Ashtiani, Javid Houtan Kian, was arrested in October and remains in Iranian custody.

Source: UN Wire.