



CBSE Bye-laws Amendments

Recommendations

Introduction

A large body of economics research and evidence establishes that in a typical market, forces of choice based accountability from the demand side and competition between suppliers ensure that quality and/or efficiency progress in an upward spiral over time (World Bank 2017). However, research also suggests that education is not a typical market, due to a lack of transparency around the quality of learning, and barriers to switching for students (Chattopadhyay 2012).

Scholarship on regulation across sectors, from healthcare to labour, suggests that when markets don't work as expected, a few levers typically can work to correct them. These include market discipline exerted by social forces (for example, firms not cheating to protect their reputations), strengthened capacity of courts to enforce contracts, dispute management between private parties, and a regulatory authority that inspects and certifies goods or services, and occasionally penalises those who provide spurious services (Schleifer 2005).

Yet there is no guarantee that the state or courts will be able to correct these failures in perfect ways, and there is scope for corruption as well as inefficiencies that arise from state action (Schleifer 2005). Effective regulation must, therefore, balance reducing harm and promoting good - and this framework applies to education too. In this light, the following changes are suggested to the CBSE affiliation by-laws

1. Non-profit nature of the sector - all entities should be allowed to open schools:

The current definition of 'Private Schools' is restrictive in the by-laws and includes a school run only by a Society/Trust/Company registered (under section 8 of the Companies Act 2013) duly constituted and registered under the provisions of Central/State Acts. The non-profit ownership requirement reduces incentives for high-quality providers and investors to enter the market, encourages adverse selection, and results in weak governance and difficulty in accessing credit.

Lack of innovation and adverse selection

Currently, the K-12 education sector in India is overwhelmingly "one size fits all". Schools are subject to input-centric norms that force them to standardise. State RTE rules require all schools to meet certain infrastructure norms such as minimum classroom size and access to a playground. Similar standards are present in the CBSE affiliation by-laws where schools need to have 8,000 square metres of land,¹ a "proper" playground and an athletic track. Meeting such

¹ In some exceptions, the minimum land requirement may be 4000 square meters or lower.

norms is a difficult task when schools have to operate as non-profit entities. This is particularly true in the case of budget private schools that operate on small margins and charge fees between Rs 200 and Rs 500 per month (Kingdon [2017](#)).

Not only do these regulations hinder innovation and diversity in the sector, but also encourage adverse selection. Only players who are able to navigate through the cumbersome regulatory framework end up opening schools. These players generally enter the sector through corrupt practices to make hidden profits, and then leave no room for good players. Herrendrof and Teixeira ([2011](#)) argue that such barriers give monopoly to groups who would lose their economic rent if better technologies are adopted.

Reduced investments

The not-for-profit mandate makes it difficult for high-quality providers to enter the sector or scale. One such hurdle is evident in accessing foreign investments. Schools registered as societies or trusts are not eligible to receive foreign direct investments in India due to exchange control regulations. Even if a school is set up as a Section 8 company, it has to seek prior permission from the Ministry of Home Affairs. This process can be long-drawn (Gupta [2020](#)). These schools are also subject to provisions of the Foreign Contribution (Regulation) Act [2010](#).

Weak governance

Most private schools have to operate as non-profit entities and register either as a Society or a Trust. Both these ownership structures do not have good models for governance. For instance, after gaining their initial registration, trusts generally operate without any oversight. There is also no stipulated time limit for the registration process or automatic approval in case of delay (Sampradaan [2004](#)). This leads to low transparency and weak governance since private schools still try to operate as for-profit entities under the radar.

Difficulty in accessing credit

The mandate for schools to operate as non-profit trusts or societies can also pose barriers to access to credit or investment (Sampradaan Centre 2004). During the COVID-19 pandemic, several private schools were unable to maintain their reserves and had no option but to shut down (Kalra [2020](#)). If they were able to register as enterprises, private schools, particularly budget private schools catering to low-income populations, would have been able to access bridge financing and avoid closure.

Case in point:

CBSE is a body to set standards, curriculum and assessments for schools. Issues such as which entity should run school or which should not is a legal-administrative matter that falls in the purview of respective state where the school is in operation. Several states such as Haryana, Uttar Pradesh etc allow various other kind of registered entities too to set up and operate schools. They do not restrict companies to only such companies that are registered under section 8 of companies Act 2013.

The definition provided in the most recent 'Uttar Pradesh Self Financed Independent Schools (Fee Regulation) Act 2018 provides an appropriate definition for 'Eligible Education Entities' that can set up schools as follows:

"Eligible education entity means any society registered under the Societies Registration Act, 1860, or public trusts or trusts created under the Indian Trusts Act, 1882, or companies registered under the Companies Act, 2013 or any other entity permitted by any of the Boards which operates, manages and maintains recognised schools in the State"

Rule 3(1) of Haryana School Education Rules, 2003 provide for the following:

"Every school established by any individual or association of individuals or firm or society or trust or company, shall follow the norms specified under these rules."

In order to enable implementation of statutes promulgated by various state legislatures as aforesaid, an amendment is required. Allowing various kind of registered entities including all kinds of LLP's and Companies shall attract more investment in the school education sector as such entities can also raise funds through capital markets.

Audit, disclosure and compliance norms of Companies and LLP's are much more stringent and transparent as compared to those of Societies and Trusts.

CBSE grants affiliation in other countries to various kinds of recognised and registered entities, including companies as they are permitted to operate schools in these countries, Likewise CBSE should expand and create an enabling list of entities that can seek CBSE affiliation. Filter, if any could come from the state in which the school operates.

2. Revise input requirements like land area

Private schools function under very specific and granular infrastructure requirements, coming from the RTE Act, 2009, state norms formed through this Act, and requirements stipulated by affiliating boards. Government recognition criteria for schools through the RTE Act, 2009 is the most extensive regulation, detailing numerous conditions of infrastructure, teacher training etc.

that need to be followed. **Infrastructure requirements include stipulations like one classroom per teacher, playground, library, among others for private unaided schools while excluding government and private aided schools from these norms.** Under the Act, private unaided schools were directed to comply with these norms within three years at their expense, or risk loss of recognition.

Board affiliations also impose infrastructure requirements. In the CBSE affiliation by-laws, the minimum land requirement varies based on location, affiliation grade and the number of sections in the school. The minimum land requirement for secondary schools is 1600 square meters in the metropolitan cities of Chennai, Delhi, Kolkata and Mumbai and goes upto 6000 square meters for other cities (Central Board of Secondary Education 2018). The by-laws list minimum sizes of laboratories and classrooms and teacher qualifications. These infrastructural requirements are granular and may not fit the context and investment capacity of low-fee schools.

Between states, infrastructural norms to be followed may vary - for instance, the size of playgrounds mandated differs across states. Schools in Karnataka are required to own or have a 30-year lease on lands to an extent of 2,000 sq.m. to 4,000 sq.m. depending on location and grade (Government of Karnataka 2018). In Haryana, land can be owned or have a 20-year lease and should be between 350 sq.m. to 2,000 sq.m. depending on whether the school has elementary or secondary classes and whether it is single-storey or multiple-storey (Government of Haryana, n.d.).

These norms may be unachievable for low-fee schools in space-constrained urban areas. An analysis of media articles (in the absence of public administrative data) between 2015 and 2018 found that 4,482 schools were under threat of closure, 13,546 schools were served closure notices by a government authority and 2,469 schools were closed in 14 observed states for non-compliance with RTE Act, 2009 norms (Centre for Civil Society 2019). Further, much research in education shows that improvement in infrastructure inputs like buildings, toilets, electricity, etc., while undeniably important, is unlikely to have much direct impact on learning (Muralidharan et al 2013).

3. Allowing Multiple Boards to Co-Exist

“True aim of Education is to determine need of the child and ensure integration of best learning practices from across the world” -Swami Vivekananda

Education in India has witnessed a paradigm shift in recent times. The goal of modern education is to focus on ensuring that every child would be problem solvers, decision makers, and enablers. Students need to leave school with life skills that help them navigate challenges even if they don't

know the solutions to them. Over the last five years the focus on 21st century skills has shifted from the question of why we should be teaching the skills to how we can do so. Many schools or systems are adopting an agenda for teaching 21st century skills but are encountering difficulties when it comes to identifying resources to do so. With different perspectives and little concrete evidence, educators are understandably uncertain about how to adopt a new learning and teaching paradigm.

The nature of change in ‘teaching-learning’ practices has consequences for each part of the education delivery system – from curriculum, to pedagogy, and assessment. To enable transfer of new-age competencies and skills, innovative pedagogies across classes and subject areas appear to provide the most aligned approach. It has the promise of delivering three things- It can enhance students’ performance in their disciplinary studies; it can develop students to globally aligned learning needs and, it provides a consensus model for teachers to follow in their approaches of teaching & learning.

In this landscape, our current education system has a core mandate of improving equity and learning by strengthening education systems. Recently announced National Education Policy (NEP-2020) promises to develop a cohesive ecosystem of developing future ready school education system.

Managing an education system that is meaningful, credible and practicable within a very complex, continuously changing context at massive scale and under constant scrutiny is no mean feat. The Central Board of Secondary Education (CBSE), one of the most respected flagship education boards of India has managed to do just that by constantly evolving and serving students year on year for over ninety years.

However, the world has changed dramatically over the last decade and measuring the factors that determine competitiveness continues to be a highly complex process. The early 21st century has seen education reforms in many countries that were driven by new economic imperatives that called for a realignment of assessment concepts to match the prevailing educational goals.

Global adaptation of Outcome-Based education framework and enhanced focus on higher-order learning and professional skills necessitates a paradigm shift in conventional practices of curriculum design, education delivery and assessment. Rapidly changing technologies in various fields have changed the way we need to measure key aspects for creating engaged thinkers, active learners, knowledge constructors and global citizens.

In recent years, there has been a proliferation of international schools in India as students are increasingly moving away from national boards to global frameworks of curriculum and assessments.

Each of the boards- be it national or international has it's own strengths in terms of curriculum, pedagogy, student engagements, international exposure and assessment structure. However, there is a growing need to create opportunities to experiment and create scope for leveraging core strengths of each other and in the process, let students have a voice in their own learning and be invited and expected to reflect on their growth and increasingly make thoughtful decisions about their direction and priorities. ***This is possible, if we create scope for co-locating multiple boards within the same campus.***

How does co-existence of multiple boards look like?

- In recent years, CBSE and its initiatives have played seminal role in transforming and improving the teaching-learning practices in CBSE schools. The integration of technology, innovation in pedagogy and focus on building competencies & skills are helping Schools to develop 21st century learners. As a result of which, many students may be more suited to write the final exams through an International board and while ICSE allows co-location of boards in the same campus, the restriction from CBSE needs to be re-considered. As a matter of fact, CBSE International (CBSE-i) when in existence, was an internationally-benchmarked, enquiry and skill-based curriculum catering to individual learning styles, was also co-located in schools that offered regular CBSE curriculum
- International Baccalaureate (IB), for instance supports the education of more than 1.95 million students aged 3-19, in over 5,284 schools, across 152 countries and its programmes continue to grow internationally throughout public and private educational sectors.² IB schools are internationally recognized and valid as precursors to a large number of foreign and domestic universities. 53% of IB students have got better opportunities in leading foreign universities. Students must have a choice and should not need to go to pure international schools, if the purpose is simply to study abroad, where they know that the International curriculum will give them a sound foundation in terms of University preparedness.
- Teachers in schools that offer International Boards are trained on modern pedagogies and dynamic cycles of inquiry, action and reflection. Teachers are enabled and supported to

² <https://www.ibo.org/news/news-about-the-ib/the-economic-times-recognizes-the-ibs-support-within-indias-education-sector-in-best-education-brands-2020-list2/>

engage with students as they develop the approaches to learning they need – for both academic and personal success. Introduction of an International Board could also have rub-off effect on the curriculum and pedagogy of existing schools and in that sense also benefit the CBSE teachers. It can also promote multi-cultural teaching-learning practices.

- In terms of specific requirements related to infrastructure and resource management, the following points could be prescribed:
 - The criterion for co-location could be fixed on the basis of minimum area per child at say 30 square foot of built up area per child.
 - Laboratories and facilities could be common
 - New Education Policy, 2020 does highlight the point that in areas with large numbers of socio-economically disadvantaged students, schools should have a pupil-teacher ratio of 25:1. It is expected that this criteria for each board separately would discourage loading teachers with an additional burden.

Every child is different, and they have different aptitude levels and aspirations. While Indian Educators recognize the importance of internationalization in K-12 sphere, it is important to rethink how we implement educational changes, and ensure that every learner has access to best resources and support for the needed educational changes, to produce global citizens. The focus must be on a promising curricula that are not only score-intensive, but also allows for freedom to choose and maintain focus on the overall development of students. Inclusive and diverse learning environment that a student gets exposed to in a setting where rigorous international and indigenous programs co-exist, the school is bound to foster academic excellence, innovation, creativity and cross-cultural communication to educate and inspire its students.