Myth 3: ODL Should Be Subsidized Like Traditional Formal Learning

The learner profile clearly indicates that ODL predominantly serves employed and well-established adults who want to update their skills and qualifications for career development. Such a clientele can certainly afford to pay for their further learning. It is estimated that adult learners in many countries outnumber the regular student age cohort. Subsidizing the adult learners would imply a major shift in the funding priorities of the government. Additional public subsidies would be difficult to come by in a country like India that has shrinking resources and that barely provides access to 6 percent of the relevant age group. Supporting distance education cannot occur at the expense of educating the relevant age group.

Myth 4: Campus-based Formal Education Will Be Replaced by ODL

This can never happen. There is no evidence of any fresh secondary school graduates enrolling in ODL anywhere in the world. The educational benefits of human intellectual interaction are undisputed, especially for fresh high school graduates. Good teaching is aural, visual, animated, and interactive. Online courses today are by and large textual, no matter how much ICT is integrated into them. Competent literacy and the related cognitive skills are essential for learning through online lessons. The profile of the normal age groups in India that attend school and undergraduate education does not indicate any such potential for independent on-line learning.

Myth 5: ODL Is Highly Flexible in Contrast to Rigid Campus Education

Campus-based formal education intended for full-time young students should be well structured, selective in terms of curriculum and intensive enough to complete the necessary learning within a stipulated time frame. Public funding of education cannot support slow-paced learning without any time limit. Flexibility in the choice of courses is essential, and the choice-based credit system (“cafeteria model”) is gaining ground in the formal system.

Realities: Upholding the Relevance of Distance Education

As long as the educated population base continues to increase due to globalization of the economy and other trends, the education market of adult learners will continue to expand in India as well. But, the 20th-century form of ODL that catered to people who were excluded from or dropped out of the mainstream will need to undergo radical change to remain relevant in the 21st century. Very little research is under way to help bring about such radical changes. Currently, many of the initiatives in ODL are chosen based on their novelty rather than their relevance.

The convergence between distance and campus-based education is already occurring. When technology is integrated into formal education and used as the “distributed education” for both on- and off-campus students, the distinction between the two types of learning gets blurred. This appears to be the general intention of the Indian University Grants Commission in committing enormous funds for ICT to promote distributed education in the traditional universities. That makes one wonder how the ODL providers like the national and state open universities are going to uphold their relevance and the distinct purposes they wish to pursue.

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Judicialization of Education: The Fee Cut Controversy in India

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Of late we find the Supreme Court of India playing a proactive role in matters pertaining to higher education. It seems to be a fallout of the judicialization of politics in general. Every sundry issue comes before the apex court for a hearing—ranging from the liberation of 241 caged monkeys to the playing of the national anthem as part of a Hindi movie.

Judicialization is very much in vogue these days. It implies a process whereby the judiciary engages in administrative supervision. It also implies the proactive role played by the judiciary in social engineering through laying the foundations for desirable behavior on the part of the public institutions and the masses alike.

The judiciary is supposed to be in a better position to resolve the contentious issues in pluralistic and modern complex societies as the judges appear to be apolitical, neutral, and fair to the vast majorities. Moreover, they can give equal attention to all the aggrieved parties and take a nonpartisan and long-term perspective, a feat that cannot be performed by the other two organs.

The judges not only adjudicate between the two litigants in whom the “better boxer” wins the game but also take sides with the “just party.” They can do so because they are capable
of independent decisions and autonomous actions, whereas
the executive and the legislative branches are found to be too
fragmented to do so.

The shift toward judicialization reflects not only the hostili-
ty with regard to partisan politics and interest group lobbying
but also to some extent hopes for logical and rational solutions.
The judicial intervention in the wake of recent controversy over
the fee cut in the Indian Institutes of Management points to
the same trend.

The Controversy Defined
A public interest litigation was filed by the three alumni of the
IIMs against the Human Resource Development (education)
Ministry’s order on February 5, 2004, slashing the fee for a
post-graduate diploma in management at the six IIMs by
almost 80 percent. The government cannot afford this as it is
already short of funds even toward its constitutional obligation
of providing free and compulsory education to all up to the age
of 14.

The petitioners have not only castigated the order passed by
the HRD Ministry as arbitrary, retrograde, and ill-conceived
but have also alleged that the drastic fee cut amounts to gov-
ernment’s encroachment into academic matters. They have
also challenged the basic premise upon which this order was
based. Actually this order was based on the recommendation
made by the U.R. Rao Committee (set up in November 2002)
that the fee charged by the technical institutions in India
should not be more than 30 percent of the GNP as per U.S.
precedent.

Whereas the government has justified its step in the name of
equity and accessibility, the IIMs have been fighting against
the fee cut with the weapons of autonomy and quality education.
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The Issues at Stake
However, it is not a simple open-and-shut case as perceived by
the HRD Ministry. There are deeper issues involved, such as
equality versus accessibility, autonomy versus accountability, the
elitist nature of the institutions versus the demand for massi-
fication, conflict between the socialist principles enshrined
in the constitution versus the liberalization of the economy, etc.

There are more serious issues at stake—such as, whether
the judicial intervention into the realm of higher education is
desirable. Can judicial intervention result in rational and better
solutions than compromises made or half-hearted measures
adopted by the legislatures and the executive due to political
constraints? Can judicial activism be a substitute for executive
efficiency or legislative farsightedness? Can it be seen as an
anathema to the representative form of government?

A number of further questions arise: if the policymaking
authority is vested with the executive and the legislature, why
should the judiciary be allowed to interfere at all? How can the
judges succeed in resolving some of the crucial problems
when the majoritarian institutions have failed? Why should the
judiciary be allowed to decide the fate of a nation in a demo-
cratic framework when it is neither elected nor publicly
accountable?

Legalization Versus Judicialization
There is a lot of difference between legalization and judicializa-
tion. The issue pending before the Supreme Court is not just
to determine the legality of the fee cut order but also to assess
the appropriateness of the government action. Even in earlier
cases, the Indian Supreme Court played a proactive role virtu-
ally amounting to “judicialization of higher education.” For
instance, in Unni Krishnan vs. State of Andhra Pradesh, it not
only banned a capitation fee at private colleges but also laid the
groundwork for self-financing colleges by allowing a certain
number of paid seats.

Similarly, in T.M.A. Pai vs. State of Karnataka (October
2002), the Supreme Court not only gave a green light to finan-
cially independent private and minority institutions to estab-
lish higher education colleges of their choice but also stipulat-
ed against “profiteering” by private higher education institu-
tions. While deciding this case, the Supreme Court referred to
33 earlier cases in which it had intervened.

Even in the United States the judicialization of education
occurred in Brown vs. Board of Education, where the “minority
right” prevailed over the “majority will.” Whereas in the
United States, the judicial intervention in higher education
remains an exception, unfortunately, it is becoming a rule in
India. It would be wise on the part of the Supreme Court to
exercise self-restraint and maintain the status quo—as has
been hinted at by the new HRD minister under the Congress-
led coalition.