

PRIVATIZING HIGHER EDUCATION IN SPAIN

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Abstract

The Spanish university system has witnessed many changes in the last thirty years. Initial conditions for competition were laid down in 1983, specially through the recognition of legal status to private universities. However, the shortage of students since 1998 and the drop on demand for higher education (aggravated by the extraordinary increase in offer, as the number of universities more than doubled since 1982) has prompted further reform in the last few years. A new regulation was enacted in 2001 in order to force market-like behavior and to privatize some operating conditions of state universities (free choice of university by students, hiring policies, quality assessment and accountability to the public, allocation of research funds and rankings). Although it might be too early to assess the effectiveness of these changes, public funding remains mostly unchanged and this is a key issue that would need to be modified in order to provide conditions of authentic competition in the higher education industry.

Although the market has been introduced in the provision of higher education in Spain, endless (almost) public funding of state universities is a powerful distortion preventing the development of a truly competitive and fair market.

Keywords

Higher Education, Universities, Spain, Public Goods, Economics of Education, Privatization, Private Universities, Competition

“The competition among 3,000 colleges and hundreds of universities, all striving to attract better students and professors and to enhance their reputations, unleashes exceptional energy and initiative in pursuit of better programs of research and education. In contrast other systems of higher education, which tend to be centrally controlled and disinclined to compete, are slower to depart from tradition and to embark on new initiatives.”, Derek Curtis BOK, *Universities and the future of America*, Duke University Press, Durham (N.C.)-London, 1990, 104.

Introduction

The profound changes experienced by the Spanish society in the last thirty years have had an impact in the higher education system. The arrival of democracy and the Constitution of 1978 had deep implications in many social policies as Spain declared itself a social and democratic state in which several social rights were recognized to the citizens (health care, education, etc.). Higher education changed from being rather elitist and a privilege of a few, to a universal or mass system through which most of the young Spanish population passes¹.

The demand for higher education in Spain in the eighties and nineties has grown outstandingly², and this is one of the major forces underlying the change in the regulation of universities in 1983. The University Reform Act of 1983³ introduced changes in the organization and structure of the universities, giving way to the principle of university autonomy, which was expressly recognized in the Spanish 1978 Constitution. However, the reform did not alter some of the traditional features of the Spanish university system, as it preserved its public service character, the condition of public servants of most of the faculty, and a strong grip by the Central State over the offer of higher education (curricula and admissions).

On the other hand, to face the increasing demand for higher education, the number of Universities has grown considerably in the last thirty years. Since 1982 the number of Universities has more than doubled: in 1982 there were thirty-one universities and in 2003 there are sixty-eight. Most of these new universities were created by the State (twenty), although their creation did not follow any plan. Many of them were developed mainly because of political reasons (giving each region its own university), indeed their creation was “*heeding only the vaguest considerations of general demand*” (García, 1992)⁴. Besides, the 1983 Act established the grounds for the creation of private

¹ For example, in 1999, a 27’30% of the people in the 18-21 years cohort (Bricall, 2000).

² From 900.000 in 1986 to 1.500.000 students in 1995 (Mora, 1996). Although the less educated and poor families keep being disadvantaged in their access to the Universities (Mora, 1997b).

³ Act 11/1983, of 25 August (published in Official Journal nº 209, of September 1, 1983).

⁴ The expansion was relevant also in the seventies, from 1968 to 1982 eighteen new state universities were created (García, 1992).

universities, and since then, many private universities have been founded (seventeen)⁵, which coexist and compete with state universities.

Furthermore, a progressive process of decentralization was initiated by the Constitution of 1978, which has transferred the power over the universities from the Central State to regional communities, introducing a dangerous political element in higher education (Mora and Vidal, 2000b)⁶.

Since the late nineties, circumstances changed quite a bit because of a decrease in the demand for higher education. The decrease in the birth rate has reduced considerably the size of cohorts arriving to the university since 1998. The vast network of Spanish universities (state and private) was then subject to a strong pressure, due to this fall in demand, as all the universities were forced to compete fiercely for each student. For the first time, this behavior of Spanish universities provided the picture of a peculiar market, in which the survival of some universities is put into question as the number of students decreased. Some of the brand new state universities found themselves in a dramatic situation, without a number of students justifying their economic survival.

In order to take account of all these relevant changes in the universities environment, in 2001 a new University Organization Act was adopted⁷. The 2001 Act introduces a trend towards the privatization of the higher education system in Spain, as many market-like features are introduced in the operation of the universities. However, several obstacles remain that hinder the development of a competition in equal conditions by all the universities. The endless public funding of state universities and the conditions of decentralization of universities (which have converted them into a political toy in hands of regional governments) prevent the development of a truly competitive and fair market for higher education in Spain.

We make the analysis of the Spanish higher education industry structure in section 1. Section 2 describes market developments in the late nineties giving way to competition and privatization of higher education in Spain, which required a major change in the government's policy towards the universities, embodied in the 2001 Act. Section 3 concludes the article, pointing at those features of the Spanish higher education industry which prevent the development of a true and fair market in this area.

1. The Market for Higher Education in Spain: Demand, Offer and Tuition.

1.1. Demand.

The demand for higher education in Spain is determined by demographic and social reasons. Universities' potential clients depend on the number of people on their twenties that register every year, and that depends mainly on the birth rate. Each year's enrollment has to do with the size of the cohort of people that

⁵ Before 1982 there were only four church Universities in Spain, with special status granted through the 1962 Agreement with the Vatican.

⁶ In practice, the regionalization of Spanish universities has not meant differentiation among them, but rather increasing parochialism.

⁷ Act 6/2001, of 21 December (published in Official Journal nº 307, of December 24, 2001).

could (potentially) apply to the university. The arrival of the baby boomers to the universities increased the size of the cohorts and, thus, the number of students every year until 1998⁸.

Apart of the size of the group of candidates, other relevant elements in describing the demand of higher education are the social and economic circumstances of potential students. The change in the political regime at the end of the seventies provoked a transformation of Spanish society that had huge relevance for the higher education industry. Indeed, universities were one of the forces underlying the fall of the dictatorship years before the death of Franco (Lamo De Espinosa, 1993). Aside from this role of the university, which increased its reputation for independence and democratic values, the advent of democracy brought a further opening of the higher education system to young Spaniards. A university degree was considered a 'must' for most of the young Spanish people, and that prompted an outstanding increase in the number of registered students in almost every university degree.

Besides, the high unemployment rates of the eighties (some years close to 20%) gave higher education a stronger value as a way of delaying the arrival of young people to the labour market. This 'function' of universities underlines the gap existing between higher education and the labour market in Spain, as it seems clear that secondary education does not prepare students for higher education in the sense of informing and redirecting them towards the degrees that will probably be more demanded by market in future.

On the other hand, the system has promoted until recently the lack of mobility of applicants. When feasible (because the studies desired by the candidate were available), the system restricted applicant's choice to the universities in his region or district, discouraging the movement to other regions and impeding the competition among universities. This, however, was changed recently to an open district policy in which applicants are allowed to flow freely around different regions in Spain⁹.

The characterization of higher education as a credence good in which the consumer's decision and choice are adopted in conditions of relative ignorance and uncertainty cannot be clearly appreciated in Spain¹⁰. Although the situation is starting to change recently due to increasing competition, providers of higher education look pretty much the same and higher education is a commodified consumer good. Only in rare cases there are certain institutions that may have bad reputation in its training of specific subjects. Accordingly, the same could be said about the characterization of higher education as an associative good, which is perfectly applicable in other countries with more mature markets (Hansmann, 1999a), but that in Spain can only be affirmed in a rather limited sense (perhaps only for some of the traditional four church universities).

1.2. Offer.

The offer of higher education in Spain is controlled by the State in almost

⁸ The peak was 1.581.415 registered students in 1998 (last data in 2002 was 1.506.248).

⁹ See Royal Decree 69/2000, of January 21 (published in Official Journal n° 19, of January 22, 2000).

¹⁰ For the distinction among credence, experience and search goods, Darby and Karny, 1973.

every aspect. However, the decentralization process brought by the 1978 Spanish Constitution has transferred most of Central State's powers to the regions in many higher education and university issues.

Traditionally, there has been a state monopoly over universities. Until the 1983 Act there were four church universities, and only thereafter other private universities were created. Any project for a new university (public or private) has to be authorized by the State (or the region)¹¹ and the State –through the Council of Universities' Coordination- has to approve also the programs of the official degrees offered to the public.

Therefore, the *providers of higher education* are controlled by the State (or the region) and this is mostly relevant for private universities as no further creation of public universities is foreseeable in the near future. The foundation of private universities is controlled and authorized by an Act of the State (or by the region), and several legal requirements have to be fulfilled. Those requirements (offer at least studies leading to 8 different official degrees, faculty composition and working conditions, specific financial conditions and guarantees) act as a barrier to entry to the higher education industry.

The State also controls most of the *product of the higher education industry*, as the curricula and programs of all the official degrees offered by universities have to be drafted following the curriculum guidelines set by the State, with little room for freedom by each University. Every program leading to an official degree has to be approved by the Council of Universities' Coordination, and universities have freedom only to draft and offer private degrees to the market¹².

Something similar happens with the *admissions' policy* to higher education, which has to follow the channels set by the State (Mora, 1997b). A national admission exam has to be passed by any applicant to a Spanish University (state or private), and the grade obtained plus the grades on secondary education are key in determining admission to different university studies. Several departments set limits on the number of students they can admit in certain degrees, and these limits are established by each university.

Indeed, student's demand of specific training is not perfectly matched by universities, as in many cases he or she may probably have to study for some degree different from his/her first choice¹³.

¹¹ See Royal Decree 557/1991, of April 12 ((published in Official Journal of April 20, 1991). The legal requirements for private universities forces that any transfer of shares in a corporation which owns a private university needs to be authorized by the Central State (or region), the same is required for any issuance of obligations or debentures, burdening the possible access of private universities to the capital markets (see D.A. 3^a of RD 557/1991).

¹² These non-official programs are developed by Universities in exercise of their autonomy and introduces them in the grounds of an authentic marketplace with absolute freedom to design programs and fix prices (and collect them), Mora and Vidal, 2000a.

¹³ The grades obtained in secondary education and in the national access exam being (until 2000 within the regional district of the applicant) the selection criteria. There has normally been an excess demand in Health Sciences and Technical Training while there is an excess offer in Sciences and Humanities.

Besides, state universities are also strongly tied to general guidelines established by the State in their *human resources policy*. For several reasons (guaranteeing academic and scientific freedom being one of them), it is established by law that permanent teachers should have civil servant status. Working conditions and salary are fixed by a general policy of the State¹⁴. The hiring and promotion of university professors has to follow a rigid procedure, established by legal rules¹⁵. Only private Universities have freedom in their hiring decisions, although they are forced by law to have a high percentage of permanent teachers and a relevant percentage of teachers with a Ph.D.

1.3. Tuition.

The *price of higher education* is not freely established by each state university, they have little discretion in pricing issues. The understanding of higher education as a public service (recognized in the 1983 and 2001 Acts) has made public funding an essential feature of Spanish higher education industry. Basic and secondary public education are free, and higher education is almost free. Tuition in state universities is low¹⁶. The state subsidizes most of the cost of public higher education. Tuition does not cover more than 20% of the budgetary costs of each University.

Only private universities have absolute discretion to set tuition for their studies, which in comparison to state universities tend to be quite high (over 5.000 euro per year).

2. The Privatization of Higher Education in Spain: Market Developments and Government Policy.

Until the end of nineties the situation of the Spanish market of higher education was of lack of rivalry among existing competitors, as demand was growing and enrollment kept raising. Indeed, some people refused to accept there was a market for higher education at all (for example, Fernández, 1982). However, in the last twenty years the access of seventeen new private universities to the market has made initial conditions of competition to appear, as they did not receive any public subsidies, and their survival was dependent on tuition revenues and other private sources of funding. Most of private universities are non-profit although some of them are for-profit¹⁷.

Since their foundation, private universities competed among them and with state universities for new students, but state universities worried little about

¹⁴ This limits possible incentives to outstanding performance or effort by faculty members (San Segundo, 1989).

¹⁵ Going clearly against a true autonomy of the universities (Mora, 2000).

¹⁶ And only 20% of the students face additional maintenance costs, as most students do not move from their parents home during their studies (Mora and García, 1999).

¹⁷ It is not easy to determine whether some of the Spanish private universities are non-profit or for-profit. In the case of seven of them, their legal form permits them to be for-profit, although it is doubtful whether their owners reinvest or take away the profits obtained. In some of those Universities the situation is similar to that described by Altbach, 2001.

competition as enrollments kept raising and revenues were guaranteed, mostly from public resources.

With the beginning of the fall in demand in 1998, enrollments in most universities have decreased, and the need to compete for new students was made clear to all universities.

On such circumstances, private universities stressed their competition for new students, spending more resources in marketing. Likewise, state universities were forced to initiate a market-like behavior, pretending to differentiate their respective products to become more consumer oriented. Fiscal constraints due to budget restrictions necessary to fulfill convergence conditions with the Economic and Monetary Union introduced additional pressure in state universities, as no additional funding was available and more efficiency in the management of public funds was demanded.

In this vein, state universities have adopted minor changes in their governance and organization to promote efficiency in the management of resources (Villareal, 2001). However, their governance structures remain rather bureaucratic and still dominated by the academics, with few entrepreneurial insights that would be required to compete adequately in the higher education marketplace.

The drop in demand showed clearly how improvised had the creation and development of new universities been. Suddenly, some of them found their facilities empty, without students that would justify their maintenance or the teachers' salaries.

The rising market for higher education started to see a change in the operating conditions of universities. They began to plan their marketing strategies, trying to differentiate among themselves in order to attract students. Moreover, in order to provide information over the higher education industry the first rankings were elaborated. Although, the data, the methodology and the results of these first rankings are questionable, and there is still a long way to go to improve them, rankings have shown elsewhere to be a powerful source of information for prospective students¹⁸.

Changes in the market prompted an abrupt change in government policy towards the university, which led to the University Organizing Act of 2001. The 2001 Act changes several features of the Spanish Higher Education system, freeing universities from several ties that had prevented, until then, the development of an authentic competition among them. Research funds are awarded through competitive and rigorous assessment procedures to the most qualified institutions. Universities are allowed to design their own admission procedures and are provided more freedom in their management of human resources. Although, the civil servant status of professors keeps being an important feature, universities are awarded more flexibility in order to select and hire their teachers, being able to adapt their working conditions and salaries to those existing in other countries. A national qualifying exam is established for those willing to become professors with civil servant status and bonuses for outstanding teaching and research performance are legally recognized.

Finally, in order to increase universities' accountability to society, the 2001 Act introduces a framework for the control and monitoring of universities' activities. The Act stresses the role of each university's Social Council as the

¹⁸ As it has been shown in the market for business education (Corley and Gioia, 2000).

controller of the economic management of the university and introduces the National Agency for Quality Assessment to measure the performance of each university in its teaching and research activities.

However, the 2001 Act can be seen as an opportunity lost in many senses as the management power remains in control of the academics and it leaves intact the financing of state universities, mostly through negotiated payments by the regions, without taking into account the performance and efficiency of each University (Mora, 2002).

3. Obstacles in the development of a true and fair market.

The financing of public higher education remains a big obstacle in the movement towards the development of a genuine and competitive market for higher education in Spain. As in many other countries, higher education remains heavily dependent on government funding.

A change in the finance system seems advisable, following the experiences of other countries (Williams, 1991), to make universities more responsible to market needs and movements. High levels of subsidization of current negotiated budgets should be turned into a system of funding according to performance criteria (efficient operations and quality improvements). In order to improve performance funding should be tied up with performance.

Public financing could be maintained but within a market philosophy. Central planning and budgetary assignments to Universities should be eliminated, and the system should be transformed into a quasi-market in which public resources available are assigned according to market demands (Glennerster, 1991). Useless regulation, which prevents universities' differentiation and specialization should be abolished, and this would allow universities to offer different products and to compete among them (Hansmann, 1999b: coordination and communication needs among universities will be voluntarily and independently achieved, without need of public intervention). Instead of *offer subsidies* a system of *demand subsidies*, in which students decisions and choices –when feasible- determine where public funds go, should be developed (Barr, 1993). However this would require the establishment of information system with performance and quality measures of each university, that could permit students to adopt their decisions with knowledge.

These changes in the finance system would permit taking politics out of the University, as the politicians would not be the power deciding the amount of funding given (as they are now). On the other hand, several changes are apt in the financial aid policy. A great effort has been made in the past to increase the amount of grants awarded. The system needs to be changed to be more equitable. Reforms should stress support of academically qualified poor students and it should encourage geographic mobility of students. The use of income-based loans as a financial aid instrument needs to be further explored as these loans have been used sparingly in Spain.

Conclusion

Market forces cannot be let to work alone and by themselves in higher education industry. History and tradition of state universities in Europe are too

strong to be easily forgotten. Regulation and state intervention are needed, although the extent of both is open to discussion. Some material regulation of universities operating conditions is required and public control and monitoring procedures of operating conditions need to be established. A minimum quality of higher education's providers and products could be achieved in this manner. On the other hand, public subsidies are common in higher education, although they should be limited in their amount and in the way they are distributed. The traditional system of negotiated budgets needs to be transformed into a system of funding according to performance. Public funding should be reserved for those institutions that adequately perform their tasks and, therefore, performance and quality measures of teaching and research activities need to be developed.

Besides, the regulation of private universities needs to be modified to be made more responsible to market and consumer demands. Current requirements (and their enforcement) remain unrelated from a truly concern for quality. Regulation bars any possible specialization in higher education industry. The system should allow that private universities specialize on graduate or undergraduate studies. It should not impose a research role to every university founded in Spain. Having a uniform model for all universities does not serve any purpose. Legal requirements to operating private universities should show concern for information on funding and governance issues, at least in the for-profit institutions. Disclosure of profits reinvestment in educational infrastructure or distribution of profits to shareholders should be sought, and information on the center of governance should be provided (is it owner or shareholder-dominated or is the structure of the institution participatory?).

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