Are Consumerism and External Regulation Effective Policies for Developing Quality at Universities?

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1. Introduction

In the 1980s and 1990s, there was 'quasi-market' revolution in public service delivery that involved a move from an essentially statist model to a more market-oriented one (Le Grand 2003). In several countries, where a combination of state provision and state finance had been the practice, the state, while retaining control of finance, began to pull back from being the direct operator of services. Instead of the service being delivered through state bureaucracies, provision became competitive, with independent (private) providers (including recently privatized former state entities) competing for custom in market-like settings.

Although involving competition, quasi-markets differ from normal markets in that the state, not the consumer, provides all or most of the finance, with purchasing agents (more independent than government departments) being appointed to act on behalf of the consumer (like the Higher Education Funding Council for England – HEFCE; or Primary Care Trusts in the NHS in England). Increasingly, however, as we see now in England, students are taking over as primary purchasers through payments of much higher tuition fees. That is, there is now a much more direct financial link between individual consumers (such as students) and the organizations providing services (such as universities). Quasi-markets are becoming like normal markets.

Many claim that these marketization policies are essentially *de*regulatory: they remove the dead hand of state bureaucracy and their misaligned interests from the system. Yet higher education markets have been accompanied by *more* rules, not less. With markets tend to come increased regulation to protect the consumer and the public interest, not least from what economists call the negative 'externalities' of markets.

This regulatory provision includes increased state-sponsored external assurance of quality and standards for higher education institutions, on behalf of consumers and the taxpayer. The conventional self-regulatory activities of academics and their institutions have been judged by policymakers to be inadequate and insufficiently transparent for protecting students and the wider public. The Bologna Declaration in Europe has helped give such external quality assurance processes a transnational influence. 'Pro-market' regulation also includes the mandated disclosure and publicization of institutional data and information to aid student choices of where to study; and also includes rules to assist widening access to those social groups traditionally not well represented in higher education, particularly at the so-called top universities.

With marketization, higher education institutions also have become subject to a variety of private, transnational, and professional evaluations (and increased media scrutiny) over which they appear to have little control. National and global university rankings, for example, offer a market-based 'defence of the consumer' as justification for their judgements. Generally these compilers have a more private and commercial impetus than more conventional state-supported quality assurance and accreditation agencies.

In such environments, it is hardly surprising that institutions seek market (and status) protection from adverse external evaluations, and from the other dangers of competitive marketization, through increase governance attention to reputation risk management (as found elsewhere in the private sector). Universities must manage their identities and goals within increasingly changing transnational networks that mainly lack state-based steering and coordinating mechanisms. Global ranking systems, which aim at ordering these fluid networks, come to be perceived as a source of reputation risk, especially to knowledge-based organizations such as universities that are dedicated to the production of symbolic capital. These metrics and league tables are not easily avoided or controlled.

As a consequence, reputation risk tends to strongly permeate university management belief systems. Bourdieu (1988) notes, for example, that a certain kind of 'cultural capital' or reputation is the foundation of the status of elite universities. Rankings do not merely reflect existing perceptions among actors in a social field; they also become part of the 'sense-making' dynamics of the actors in the field as well. They form part of the assembly of proxies (including status and reputation) for quality, which may not be accurate - but nonetheless are acted upon as if they were. As a result, reputation is produced by the very systems (rankings) that measure it.

What are the implications for higher education policy of such developments? How appropriate is marketization for systems that appear driven more by reputation, status, and esteem ('positional goods') than profitability and market share? Does external quality assurance, particularly as found in its latest manifestation of 'risk-based regulation', provide a safe and effective way for both focusing regulatory resources where they may be most needed, while also reducing regulatory burdens on institutions. These are some of the issues we now consider.

2. Markets

The considerable dissemination of marketization policies in higher education is a reflection of the market as the dominant economic form across the globe. Most national economies seek to primarily allocate goods and services through market institutions designed to signal demand and supply through the price mechanism. Generally, key economic resources tend to be privately-owned, legally-regulated, and manifested in a key institution - the business firm or corporation. For economists, who have a strong influence on policymaking across the globe, a key or 'ideal' assumption is that order in markets needs no central coordinator, such as a state bureaucracy. The market rather operates with an 'invisible hand' that produces equilibrium between the supply and demand for goods as regulated through the price for such products. As a result, both individual and social optimality is achieved in that the rational interests of consumers and producers, on the one hand, and the productive utility of a society, on the other, are broadly maximized.

Of course, even economists recognize that a 'free market' is unlikely to be found in reality. Capitalism requires legal protections (for contracts and property ownership particularly) in order to function properly. Private economic organizations these days are subject to a host of external regulations to deal with the so-called 'externalities' of markets (under-provision, pollution, and so on). Nonetheless, the key driver of being suspicious of state activity remains for many adherents of marketization policies.

Significantly, too, not least in higher education, markets are influenced by pre-existing legacies or resource accumulation that need to be taken into account in marketization policies. Some universities, for example, possess significant financial and status endowments that weigh heavily on competitive dynamics in higher education systems opened up to marketization. Governmental regulatory action on such matters as ensuring ‘fair access’ to top universities may seek to constrain freely-based market recruitment by such institutions, although without necessarily inhibiting competitive market activity (Marginson 2011).

The UK Case

The UK government’s recent proposals for higher education in England (‘Students at the Heart of the System’, June 2011) illustrates a largely market-driven model for undergraduate education. The primary objectives are increased efficiency, quality, and equity, which are to be achieved through the following mechanisms.

1. *Competition* between institutions as a result of better informed and empowered student consumers able to choose from a more diverse provision (including private providers).

2. Deregulation particularly through the introduction of risk-based quality assurance, so that institutions with good track records of quality assurance and regulatory compliance will be reviewed much less often by the Quality Assurance Agency, and only those deemed most ‘risky’ will have full institutional visits.

3. *Quality* processes focused around the student as consumer, empowered by government-mandated and widely-publicized information from institutions on a number of ‘student satisfaction’ dimensions, thereby incentivizing institutions to provide a much improved student experience (and defining ‘quality’ as a good student experience expressed as ‘satisfaction’).

4. *Equity* enhancement by strengthening the powers of the Office For Fair Access (OFFA) to ensure that institutions commit to strategies for widening social access to their programmes.

We should note that markets consist of both consumer behaviour and organizational and regulatory authority. Sometimes market or consumer-based reforms also aid organizational authority controls. Undoubtedly enhanced information for student consumers, essentially consisting of evaluations by previous students of course and tutor performances, although a market-enhancing device, also provides important data for institutional managers, too, in determining strategies for departments and programmes.

A policy objective in marketization is that institutions that prove to be most responsive to student needs in a competitive environment are able to grow (and less successful ones will decline or demise). That is, student choice drives competition and has consequences for institutions. The assumption is that a consumer-based notion of 'quality' as exercised by student choice will result in quality (defined as the 'student experience') rising as a result of competitive pressures. This notion of quality means that bureaucratically-defined and regulated definitions, as found in quality assurance agencies, are able to be relaxed. It is better to allow institutions to redirect such resources, previously devoted to external quality assurance, to improving the student experience instead, which also allows quality assurance agencies to focus – selectively - on institutions posing the greatest risks.

It is likely that, in such circumstances, high-status (but perhaps not necessarily high-quality) institutions will benefit. Students predominantly go to universities (top or elite) that offer the greatest chance of achieving high-standing and high status qualifications (positional goods) that enable the most highly rewarded jobs to be secured. The major employers reinforce this by their tendency to confine graduate entry recruitment to the top universities. That is, we find highly segmented and stratified markets in higher education that may be far more responsive to status than to economic considerations, thus reducing the scope for competition or indeed for regulatory-approved notions of quality to have much market impact. Status often becomes a proxy for quality in higher education markets.

Although a main aim of marketization policies is to enable the most successful, consumer-pleasing institutions to grow, there is little sign that highly-prestigious institutions feel that domestic undergraduate growth will enhance their national and global standing. Rather, they may place restrictions on entry to maintain elite standing (as found in global rankings, where research predominates as the key criterion). Nor are high-achieving student consumers likely to want their own competitive positional advantages that accrue from attending the top universities diminished by such institutions significantly expanding student recruitment. They know, too, that they may gain as much knowledge, experience and valued contacts from their student peers in these relatively enclosed environments, as from their tutors.

Notwithstanding status segmentation constraining marketization, a problem with competition generally is that it has anti-competitive tendencies. The strong get stronger as the presumably less efficient and less consumer-friendly entities disappear. That is the dynamic and logic of competition. At some stage this reduction in institutions may result is less choice for student consumers, although admittedly the choice may be from a more robust and high quality range of institutions. Nonetheless, a smaller club of elite universities in such circumstances may conspire together to reduce the impact of competitive and market pressures by, say, using governmental regulators to prevent new competitors entering the market (including from abroad).

A major policy question with the introduction of marketization and competition policies in higher education is: should anti-competitive tendencies be controlled to maintain diversity of choice and provision (by not allowing the most popular institutions to grow too much); or should the prospect of increased quality student experiences provided by the fewer but market-successful institutions be the overriding approach, such as by allowing the best institutions to grow irrespective of the negative impact on other providers? Where is the best net social benefit to be obtained?

3. Consumerism

The UK government, like others, links the development of university performance indicators under marketization to a conception of students as consumers. This reflects the increasing dominance of market-like mechanisms, such as choice and competition, in higher education systems worldwide. The use of national surveys of student satisfaction (with courses, tutors), as well as the strengthening of consumer rights for students and the institutionalisation of complaints procedures, are indicators of how such views drive policy developments. The model for redress is one of individual 'exit' as a result of increased choice and competition between institutions, rather than 'voice' or collective protest.

In part, as well as enabling increased competition and choice, consumerism reflects 'a distrust of professional groups in higher education as self-serving resisters of change who work against the interests of other stakeholders', including students (Naidoo et al. 2011: 1145). Marketization and consumerism reflect a profound change in policymakers' *beliefs* about what motivates those working in the public services and also the capacity of those receiving such services (students, patients) to come to individual judgements of their own interest that may be markedly different from the professionals' views of such matters. That is, the new policy designs question the long-held social democratic view that professionals – doctors, academics, lawyers, for example – are motivated by an altruistic, public service ethos. Rather, they have come to be portrayed more by self-interested objectives. At the same time, students and other recipients of such services are viewed not simply as passive 'pawns' entirely reliant on professional judgements, but as capable of exercising meaningful choice in circumstances of competition and adequate information on providers' performances (Le Grand 2003).

The policy assumption is that high quality (defined in terms of the student experience) will be rewarded, and low quality penalised, in these marketized environments and as reflected in student applications, resulting in more student-focused academic staffing. 'That is, consumerist forces will work positively on the professional practices of staff and the corporate endeavours of universities operating in much more competitive environments' (Naidoo et al. 2011: 1145). Consumerism thus is a device for reforming academic culture.

Nonetheless, there has been little research on the impact of consumerism on higher education systems constituted by institutional segmentation. And yet, most research on consumer behaviour and outcomes emphasize the importance of a sector's context and the particular characteristics of its organizations. For example, it is not at all clear that high-status universities will embrace consumerism but may be predisposed to use their superior resources to delay or minimize it. Lower-status institutions may have little such choice, however, than to engage in fierce competitive behaviour and marketization strategies for their very survival.

Moreover, because students are aware of the positional goods on offer, they may be predisposed to rate their degree and university highly in student-satisfaction surveys because they know that the results of such surveys will impact on the rankings of their own degree. On the other hand, however, institutions do have the power to award or withhold a degree based on their judgement of the student's performance, and this helps to tempter consumerism in universities. 'This has important implications for the power relationship between students and faculty and the related issues of empowerment' (Naidoo et al. 2011: 1150).

4. <u>Risk-based quality assurance</u>

An increasing regulatory feature associated with marketization in higher education and other sectors is that of risk management. Having a recognizable risk management system is becoming a basic requirement for universities demanded by regulators (such as HEFCE). Once such a system is in place in a sector, the regulator is in a position to rank and judge (perhaps informally to begin with) different universities as a basis for its own risk-based approaches to the field. As the regulator gains more experience, the status of the university's risk management system becomes more than a legitimizing necessity; it becomes a reputational resource that helps to constitute the relationship with the regulator. As Power et al. (2009: 306) note, 'risk management is part of a broader set of transformations of universities from being ungovernable and idiosyncratic collections of individuals to being accountable organizations with clear missions, formal structures, professional management, and an 'appetite' for risk'.

The objective with risk-based quality assurance is not that risk is to be avoided by institutions – to do so would result in diminished opportunity and entrepreneurialism – but that risk should be anticipated and controlled through coherent planning, i.e. through good systems of internal controls. The quality of the quality assurance body is also claimed to be enhanced – by being more focused and explicit than is found in traditional cyclical and regular inspections for all, and where the focus tends to be on securing compliance with rules-following rather than on controlling relevant risk. Pragmatically, too, there is acceptance by government that regulators generally lack the resources in hard budgetary climates to be other than focused and selective in their monitoring of institutional and systemic risks.

Yet, by definition, risk-based regulation implies the toleration of some risks by the regulator. This poses institutional risks for such agencies, especially if a scandal emerges in an institution regarded as trusted or deemed as 'non-risky'. Although designed to counteract risks in their sector, regulators must also have regard to their own reputation, rather like the entities they regulate (ranking organizations, including credit rating agencies, are also confronted with reputation issues). Risk-based regulation may come to have less to do with the operationalization of particular assessment techniques and instead become part of the management of legitimacy. As a result, regulators may fall back on protocols and bureaucracy as a form of organizational defensiveness, rather than on controlling risk to society. Moreover, risk-based regulators often need more data not less from institutions as they develop their new systems.

Nor is it clear that students and parents welcome the lack of external quality assurance as a result of being located in a perceived 'non-risk' institution (while foreign senders of international students may also feel uneasy at sending these to ‘unregulated’ entities). Besides, in marketized higher education systems, circumstances can change quickly and new risks may suddenly emerge. Looking at an institution’s track record may not be enough for predicting risk into the future. Moreover, simple technical or value-free allocations of institutions to ‘most trusted’ and ‘least trusted’ categories (in risk terms) by the regulator as a result of probabilistic analysis is never the sole driver of such decisions. The reputation or status of an organisation may count for more, especially in higher education systems where reputational hierarchies have a high resonance, including for regulators.

5. Risk-based regulation and marketization

Nonetheless, risk-based quality assurance and related regulation appears likely to be an increasingly significant accompaniment to marketization policies, not least because of its claimed ‘deregulatory’ emphasis (doubtful though this may be). It provides a clear example of model borrowing from the private sector; the internal risk management systems being advocated for the public sector and its regulators all share the central elements of risk management strategies common in private sector companies as a form of governance (and not simply as a low-grade technical function).

Risk-based regulation is a form of economic neoliberalism by stealth. Rather than the object of regulation being defined by risk (as is claimed), regulation is justified principally in terms of its role in correcting market failures. In the UK, the priorities in the recent reforms are competition not oligopolies, information disclosure not secrecy, and the breakdown of defensive and self-interested academic cultures. Market access, consumer satisfaction, and information disclosure underpin the regulatory proposals, rather than state-backed external regulation for quality assurance. A central tenet is that the best form of governance for higher education is the self-regulating, free market, with state regulation regarded as inefficient and, at worst, a threat to freedom and entrepreneurialism.

As neoliberal market theory is more universal and globalizable as a base for regulatory methodologies than dependence on risk notions (which are quite contextually interpreted), risk-based (so-called) regulatory models are likely to reflect market-enhancing regulation covertly rather than directly and become a form of economic regulation. As such, it is a model for higher education regulation and quality assurance that may diffuse readily with the transmission of marketization reforms transnationally.

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