

OF BUMPING AND BENDING: FOREIGN UNIVERSITIES' FDI STRATEGIES IN MALAYSIA

MARC PHILIPP SCHULZE*,** 

* *Leibniz Institute for Research on Society and Space, Flakenstraße 29-31, Erkner, 15537, Germany. Email: marc.schulze@leibniz-irs.de*

** *Humboldt-Universität zu Berlin, Unter den Linden 6, 10099, Berlin, 15537, Germany.*

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ABSTRACT

Universities from varying institutional and geographical contexts have increasingly invested in offshore subsidiaries in the Malaysian private higher education sector. Literature on transnational education policy and management as well as economic-geographic accounts of firms' transnationalisation or public service provision have not investigated foreign providers' direct investment and market access strategies in the higher education sector. This paper addresses these gaps, showing how and why foreign actors' investment and market involvement in Malaysia have changed. Empirical data is drawn from qualitative interviews and policy documents. The research reveals that foreign universities have strategically modified their business partnerships and bi-national accreditation to bypass and bend state regulation of market access as well as to restructure internal organisation and geographical configuration. The paper proposes conceptualising foreign higher education providers as transnationalising, reflexive networks within networks that respond to dynamic market access regulation by adopting firm-like investment strategies.

Key words: universities; FDI; market access; regulation; Malaysia

INTRODUCTION

Malaysian students were long considered a substantial share of fee-paying foreign students, and higher education institutions (HEIs), in particular in the UK or Australia, have aimed at attracting Malaysians to move and study abroad. However, while numbers of Malaysians studying abroad have decreased, private higher education (HE) inside Malaysia has become one of the country's high-turnover economic sectors and an important market for foreign degrees. In 2018/2019, only China (78,200 students) hosted more students studying for a British qualification completely outside the UK than Malaysia (68,300) (HESA 2020). Foreign HEIs entered the domestic Malaysian market by offering their programmes on site in different forms. Their market involvement ranges from articulation agreements with domestic

HEIs to substantial investment in fully-fledged campuses in Malaysia. For both providers and government, this gives central relevance to questions of market access and investment regulation in Malaysia.

Regulation of degree programmes and private HE markets has become a key issue in transnational higher education (TNHE) debates and literature on HE policy and management (Kosmützky & Putty 2016). Policymakers and HE scholars often portray HE regulation frameworks as instrumental: states – in their function as regulators – try to reach policy aims through jurisdiction and regulatory practice. Such aims could be ensuring the quality of education and, therewith, protecting consumers of HE services or the country's reputation as a location for quality education (Ziguras & McBurnie 2015). In international business studies, HE

regulation frameworks represent external variables for running HE programmes and infrastructures: based on given regulatory frameworks, HE providers set up programme designs and – as economic enterprises – business models. In this view, adjusting their current programmes to context-specific regulations translates into additional costs that make offering a programme abroad more expensive (Shams & Huisman 2016).

However, the existing literature does not cover the full scope of TNHE programme and provider regulation, as it has two major shortcomings. First, the literature portrays TNHE regulation as rather static and one-sidedly restricting: it mainly approaches regulation of foreign providers as institutional frameworks that are set and controlled by governments and complied to by providers (cf. Hou *et al.* 2018). What is cut short by these readings is that states' regulations are subject to political change on different geographical scales and evolve over time. Not enough literature exists on how foreign actors in HE provision adapt to and interpret changing regulations. Second, previous works mainly focus on educational, quality assurance or managerial aspects of foreign provider and programme regulation only. But there is another globalisation process at work: while universities have always been transnational organisations in the sense that they brought together transnationally mobile academics and students and fostered institutional partnerships worldwide, their transnational character took on a new dimension. By establishing subsidiaries abroad, universities outgrew their traditional scale of reference, that is, their parent nation state's territory. They started operating as transnational networks, aiming at accessing foreign markets as private enterprises and transforming into quasi-transnational corporations (TNCs). However, in a highly regulated public sector such as education, market access restrictions usually exist. TNCs and governments' foreign direct investment (FDI) strategies are sometimes conflicting or incompatible. Not enough is known about providers' FDI and market access strategies that help bypass and bend state regulations in the HE sector.

This paper addresses these shortcomings from an economic-geographic perspective,

answering two research questions: how have foreign providers accessed the HE market and invested in HE provision in Malaysia? And why have foreign HE providers' offshore subsidiaries in Malaysia changed their forms over the last 30 years? The analysis provides valuable insights on HEIs' investment strategies and their responses to evolving regulations on multiple scales. It proposes a conceptualisation of foreign HE providers as transnationalising, reflexive networks within networks that respond to dynamic environments of FDI regulation.

The paper is structured as follows. First, it synthesises conceptual economic-geographic strands of research into FDI regulation and strategies. This section aims at reprocessing and preparing an economic-geographic account for investigating FDI regulation and strategies in the HE sector. Second, research strategy and context are discussed. This section includes an overview of how Malaysian HE provision is organised today, how FDI and market regulation has developed over time and who the major foreign players on the private market are. The third section is an extensive empirical analysis of transnational providers' FDI and access strategies on the private HE market in Malaysia. The analysis starts with basic information on all foreign providers' subsidiaries. Then four examples of market actors' organisation and partnership re-adjustments are reviewed in more detail as strategic responses to evolving markets and multi-scale regulations. The section then ends with wrapping up and discussing the empirical findings against conceptual thoughts from the first section. The paper concludes with further research implications.

CONCEPTUALISING FDI STRATEGIES AND REGULATION IN ECONOMIC GEOGRAPHY

To date, much economic-geographic literature into FDI regulation and strategies stems from two strands of research: (i) political economy-informed debates around states as regulators of the economy, markets and investment in public service provision; and (ii) organisation theory oriented analyses on transnational

corporations' market entries and FDI. This paper draws from both strands, to conceptually understand encounters and re-adjustments of FDI strategies of the state and the transnational firm in the HE sector.

States as regulators of markets and FDI –

Economic-geographic research has a long tradition of investigating state regulation of territorially-bound markets and FDI. In particular political economy approaches have examined regulation of interactions between politico-institutional structures and socio-economic relations, for example in comparative perspectives as varieties of capitalism and uneven geographies of neoliberalisations or with respect to structural change in modes of economic accumulation (Brenner *et al.* 2010). By looking into political economic structures, these approaches often consider nation states as ultimate regulators of the economy and hence underline the ongoing relevance of nation states in the age of economic globalisation (Scheuplein 2018). It is through the medium of space, for example nation-state territories, how socio-economic structures and relations are ordered and stabilised.

More recent work in economic geography has critically investigated neoliberalisations and marketisation, more precisely the insertion of the market as a form of governance, in public service provision. Birch and Siemiatycki (2016) discuss the diversity of marketisation processes with respect to their implications for restructuring the state as well as for the provision of 'public goods'. These works highlight not only the entanglement of the state on different scales and markets but also state actors' key role in creating and facilitating conditions suitable for marketisation. States' use of public private partnerships for financing public infrastructures and reducing government budgets was critically examined, mainly in the Global North. Geographers (e.g. Ahmed 2010) have also shown that, particularly in the Global South, the impact of foreign investors on the delivery of public services has become virulent as private business interests have become more dominant.

Other economic-geographic work has focused on states' strategies in regulating FDI in

selected sectors, such as the retail sector (Dales *et al.* 2019) or the pharmaceutical industry (Horner 2014). Questions of nation states attracting desirable and cutting off undesirable forms of FDI from territorially-defined and regulated markets have been prominently discussed in debates around state developmentalism, particularly in East Asia (Woo-Cumings 1999). Strong developmental states use protectionist, interventionist economic policies in favour of the nation's general economic development and often aim at catching up with advanced economies. Yet, the phenomenon of state developmentalism should not be restricted to national-scale East Asian economies; it rather mirrors a specific form of capitalist dynamics fed by interactions between economies and transnational capitalist forces (Glassman 2015). Economic geographers (e.g. Olds & Yeung 2004) have highlighted that states use sectoral and territorially-defined projects to link their economies with 'global spaces of flows', including FDI. This is what network-oriented economic-geographic work (Coe *et al.* 2004) conceptualises as 'strategic coupling', the moment when regions and global production networks interact and value added is captured.

This first strand of economic-geographic research has turned to exploring states regulating and de-regulating HE (Castree & Sparke 2000; Jessop 2017). Geographers associated commodification of education with 'a new regime of (flexible) accumulation' (Mitchell 1999, p. 384) or revealed the entanglements of private investment interests in local education infrastructure provision (Hillier & van Wezemael 2008). However, geographic research has rarely investigated states' orchestration of cross-border investments in HE (see Olds 2007 as a notable exception). Nevertheless, this perspective is especially valuable for identifying the territorial character of HE markets and HE regulation on different scales. Governments do not only facilitate market-oriented re-structuring in HE provision, which had traditionally been delivered by the state. In the HE sector, the state is also key regulator and gatekeeper of providers' FDI and market access. This paper acknowledges Dales *et al.*'s (2019) notion of changing regulations as interplay between

governments' attempts to regulate FDI and firms' efforts to impact, bend and circumvent these regulations. Yet, in order to reveal the transnationalisation and market access strategies that foreign providers employ, this paper's analysis considers Malaysia's regulations for FDI in the private HE sector as the given setting.

Transnationalisation and FDI of corporations

– Unlike political economy-oriented works commodity chain-based approaches focus on global production of goods and services, taking into account its spatial and functional fragmentation. Hence, actors involved in production and their interrelationships are foregrounded. Global production network (GPN) approaches highlight the societal, territorial and network embeddedness of global production processes and transnationally operating actors (e.g. Henderson *et al.* 2002). GPN literature has recently been extended to service production and offshoring (e.g. Kleibert 2015). From this perspective, FDI regulation and strategies of states become part of institutional contexts that GPN and transnational actors couple with.

In addition to scrutinising geographies of global production processes, economic geographers (e.g. Hess 2004) have also addressed the interface of transnational firms and their local embeddedness by investigating how transnational firms' organisation is shaped through interactions with their host environment. Dicken and Malmberg (2001, p. 352) pointed out that transnational corporations may be better conceptualised as 'networks within networks' that are 'configured and organized in particular forms of power structure and governance'. In this reading, boundaries of transnational corporations as legally defined entities become permeable and blurry. It is not only that transnational firms' cross-border investment impact the region's trajectory of economic development. But it is also through geographical effects that territoriality and scale influence incoming firms' composition and evolution (Yeung 2005). Hsu (2006) argues that by opening up for tapping into local networks and resources, transnational corporations create

new interaction and tension. Corporations' cross-border location choice and localisation hence become highly sensitive strategies. This firm-territory nexus takes even more effect when transnational corporations, as reflexive agents, respond to changing institutional-regulatory contexts and seek to modify their environment at various scales to maintain competitiveness (Jessop 2001).

Further economic-geographic work has focused on the substantial role of firms' evolutionary learning processes in transnationalisation pathways and networks (Yeung 2009). van Meeteren's (2015) study in this journal sheds light on how transnationalising small and medium-size enterprises learn to bridge differences between business systems, despite limited financial resources. Drawing from innovation studies literature, the author emphasises actors' learning through coping with conflict and iteratively 'bumping' against socio-cultural and institutional differences. Yet, corporations' strategic responses to institutional-regulatory differences and change can be both internal and external to the firms' organisational structure, for example with respect to its relationships with other firms or governments.

This geographic work has not yet explored providers' FDI and transnationalisation in the HE sector. This paper aims at this project by shedding light on if and how education providers themselves are shaped by geographical effects when establishing privately-run branches and implementing elements of corporatisation abroad. It follows Hsu's (2012, p. 386) view that more attention must be paid to 'appreciate the role of the firm as an active agent, which strategically responds to regulations imposed by institutions and which consequently (re)shapes its industrial practices, economic organization, and geographical configuration'.

RESEARCH STRATEGY AND CONTEXT

This conceptual framing prepares the paper's analysis of changing economic geographies of HE provision and market access through the lens of transnationalising HEIs. Two expectations are suggested by the literature: (i) it is

also true for the HE sector that territoriality, that is, manifested in state regulation of the domestic market, substantially pre-shapes, but not necessarily determines, foreign providers' access options and investment strategies in service provision. And (ii) HEIs strategically modify their economic-geographical configuration when responding to territory-based market regulation abroad. Discussing these pre-considerations in the research context of Malaysia, an 'emerging' economy outside Western Europe or North America, makes service providers' reflexive transnationalisation strategies particularly apparent. Private HE in Malaysia constitutes a territory-bound, market-like arena, which is accessed by firms and comes along with conditions of regulation and competition.

This section gives an overview of private HE with regards to FDI policy in Malaysia. The section first outlines the main features of Malaysian FDI policy and the dual public-private education system. Then, most relevant regulations for foreign providers' market access and FDI over the last 30 years are sketched. The section closes with the study's methodology.

Malaysian FDI policy and the de-facto dual HE system – Malaysia's New Economic Policy (NEP) from the 1970s entailed long-term repercussions for both FDI and HE in Malaysia. It was based on the overall objective that national unity could only be reached through alleviating poverty of the entire population and ethnicity-based socio-economic imbalances (Gomez *et al.* 2013). In the 1970 and 1980s, Malaysia experienced rapid economic growth with large influx of FDI and export surpluses in the manufacturing industries (Ariff & Chye 1992). Part of this Southeast Asian 'miracle' narrative is that Malaysia created a favourable environment for FDI and exporters by, as far as possible, relying on market forces and foregoing industrial targeting and financial repression. Yet, it is controversial whether Malaysia's reserved industrialisation policy is a suitable example for other industries or economies, because it was largely backed by natural resource extraction and foreign, particularly Japanese, manufacturers that exploited Malaysia's cheap labour as assembling

and exporting platforms while under cost pressure at home (Jomo 2001).

To balance economic inequality, the NEP particularly targeted the Bumiputera as the group most in need, which includes the Malay and other indigenous ethnic groups. The affirmative action programme introduced ethnic quotas at public universities in order to favour Bumiputera students' admission over Malaysian Chinese and Indian (Lee 2004). In light of limited provision or restricted access to public HE in Malaysia, many Malaysians have chosen to pursue HE abroad over the following decades, mainly in Singapore, Taiwan, the UK and Australia (Wan *et al.* 2015). With the National Development Policy formally replacing the NEP in 1990, the government identified the need of expanding HE supply in Malaysia. This should help increase skilled manpower for commercial and industrial sectors, which had considerably grown with FDI influx. Furthermore, fewer Malaysian students should study overseas as they had caused substantial loss in foreign exchange (Koh 2017).

Malaysia's government faced these challenges with passing the Private Higher Education Institutions Act (PHEIA) in 1996 and promoting liberalisation of HE in Malaysia. The Act legally recognised an already existing, previously unregulated economic sector that was largely driven by market forces and intertwined domestic and foreign entrepreneurial activities (Tham 2019). Since then, HE in Malaysia has developed into a dual system of public and private HEIs, with the two subsystems being more or less equal in size: 650,000 students were enrolled at public and 700,000 at private post-secondary education institutions in 2017 (Wan *et al.* 2018). Although ethnic quotas on intake to public institutions were removed in 2002, there are indications that the two subsectors *de facto* still split up their student clientele along ethnic lines. Also, the two subsystems are governed in substantially different ways. Even though policies of corporatisation and quasi-marketisation were implemented in public universities too, public institutions are directly governed by the Public HEI Governance Division of the Ministry of Education's (MoE) Department of HE, basically through state funding and financing mechanisms (Morshidi

2010). Contrastingly, private education is composed and treated as a realm of market relations monitored by the state as a strict regulator (Wan *et al.* 2015): all private providers are Sendirian Berhad, domestic private limited companies, competing with each other for revenues through students' tuition fees. They are to be run in rigid accordance with the Companies Act 1965. They have reporting obligations to the Companies Commission and must obtain approval for their services by the Private HEI Governance Division and the Malaysian Qualification Agency.

Changing regulations for providers and FDI in HE – Even before their formal recognition by the PHEIA, domestic private colleges have established twinning arrangements with foreign universities. With these bilateral agreements foreign universities have taught parts of their programmes in Malaysia via domestic providers and, with it, have indirectly placed their services on the Malaysian market. The law amendments and acts from 1996 legalised both foreign and domestic public universities franchising their own degree programmes to local private colleges (Wan *et al.* 2015). Furthermore, the PHEIA provided a legal framework for foreign HEIs to invest and establish foreign-owned local companies in Malaysia. These subsidiaries can be run under the Malaysia-specific licence statuses of domestic private universities, university colleges or colleges as well as of a Foreign University Branch Campus. While colleges are not entitled to award domestic academic degrees, universities must not offer foreign degrees via twinning arrangements. In contrast to other domestic HEIs, Foreign University Branches confer 'foreign' qualifications, which range from pre-university foundation, to Bachelor to postgraduate level. Formally, these qualifications are Malaysian, as Foreign University Branches are defined as local entities. But practically, they are designed nearly identically to the foreign mother universities' programmes.

The World Trade Organisation's inter-governmental General Agreement on Trade and Services (GATS) from 1995 frames education as a tradable service and attempts to harmonise

regulatory systems across borders (Robertson *et al.* 2002). It provides the rationale for further liberalisation of HE and potentially opens new business opportunities for transnational providers. Even though Malaysia did not commit to HE trade liberalisation via GATS, major regulations that hampered foreign providers' FDI and access to its private HE market were removed by 2012: the prescription of the Minister's formal invitation to applying for subsidiary establishment in Malaysia was softened; and formal limitations to foreign equity in Malaysian subsidiary companies were gradually relaxed from 49 per cent to full ownership by 2015 (Tham 2014).

Not only the fiscal deficit that the government was running since the Asian financial crisis can be seen as a reason for increasing reliance on private – and foreign – investment in HE. But marketisation of HE in Malaysia can also be ascribed to private providers' aggressive approach in market development, student recruitment and impacting government decision-making (Wan *et al.* 2015). Nevertheless, the Malaysian government did not provide any further incentives for foreign or domestic private HE players. With around 500 institutions that award post-secondary education qualifications the domestic private market has been highly competitive. In order to regulate quantity and diversity on the private market, the government has introduced and extended moratoriums on new providers' market access and selected programme approval since 2013 (Tham 2019).

Methodology – This paper's analysis takes into account all subsidiaries of foreign education providers in Malaysia in operation in 2019. The term 'offshore subsidiary' is used for a corporate entity that offers certified HE programmes in Malaysia and arose from transnational investment of a clearly identifiable non-Malaysian HEI. This definition is sufficient and effective for the analysis' purpose, even though it deviates from other definitions such as 'International Branch Campus' (e.g. Lane 2011, p. 9) and may capture and exclude different providers. Table 1 lists all those foreign providers including their main partners and subsidiaries' license status in Malaysia.

Table 1. *Foreign education providers' offshore subsidiaries in Malaysia.*

| Name of offshore subsidiary | Foreign & domestic partners | Licence status |
|---|---|----------------------------------|
| Asia School of Business | Massachusetts Institute of Technology, USA – Bank Negara | University |
| Curtin University Malaysia | Curtin University, Australia – unknown | Foreign University Branch Campus |
| Heriot-Watt University Malaysia | Heriot-Watt University, United Kingdom – no domestic partner | Foreign University Branch Campus |
| International University of Malaya-Wales | University of Wales Saint David, United Kingdom – University of Malaya | University |
| Kolej MDIS Malaysia | Management Development Institute Singapore, Singapore – no domestic partner | College |
| Manipal International University | Manipal Academy of Higher Education, India – no domestic partner | University |
| Melaka-Manipal Medical College | Manipal Academy of Higher Education, India – Melaka Medical College | College |
| Monash University Malaysia | Monash University, Australia – Sunway Education Group | Foreign University Branch Campus |
| Netherlands Maritime Institute of Technology | NHL Stenden University of Applied Sciences & HZ University of Applied Sciences, Netherlands – unknown | College |
| Newcastle University Medicine Malaysia | Newcastle University, United Kingdom – no domestic partner | Foreign University Branch Campus |
| Raffles College of Higher Education Kuala Lumpur | Raffles Education Corporation, Singapore – unknown | College |
| Raffles University | Raffles Education Corporation, Singapore – no domestic partner | University |
| RCSI and UCD Malaysia Campus | Royal College of Surgeons in Ireland & University College Dublin, Ireland – no domestic partner | Foreign University Branch Campus |
| Swinburne University of Technology Sarawak Campus | Swinburne University of Technology, Australia – Government of Sarawak State | Foreign University Branch Campus |
| University of Nottingham, Malaysia | University of Nottingham, United Kingdom – Boustead Sn Bhd | Foreign University Branch Campus |
| University of Reading Malaysia | University of Reading, United Kingdom – no domestic partner | Foreign University Branch Campus |
| University of Southampton Malaysia | University of Southampton, United Kingdom – no domestic partner | Foreign University Branch Campus |
| UoW Malaysia KDU University College | University of Wollongong, Australia – no domestic partner | University College |
| Xiamen University Malaysia | Xiamen University, China – no domestic partner | Foreign University Branch Campus |

Source: Compiled by the author.

Empirical evidence for the analysis is drawn from 24 semi-structured interviews of approximately one hour each, all conducted in 2019. Additional data comes from a corpus of policy documents, governmental agencies' reports and HEI material, available in the public

domain in 2019. Data from different sources were triangulated: the interview transcripts were coded, developing a coding system based on knowledge from the literature. A content analysis of the text corpus was used for counter-checking with the interview data. Findings

of the content analysis also helped reify and further develop the coding system.

Nine of the interviews were with HE consultants. They currently work or formerly worked in advisory positions for the MoE or governmental agencies indirectly connected to the private HE sector. Their expert knowledge was useful for reconstructing the regulatory backgrounds providers plot their strategies against and for information on providers' partnerships. This goes particularly for completing missing data from the past. The other 15 interviews were with high-level management officials of foreign subsidiaries and their partners, covering around two thirds of all 19 offshore subsidiaries. These interviews helped in grasping HEI managers' schemes of reasoning and decision-making on transnationalisation pathways. All interviewees were treated with personal anonymity. The HEIs were given generic names to illustrate their transnationalisation strategies more vividly.

EDUCATION PROVIDERS' MARKET ACCESS AND TRANSNATIONALISATION STRATEGIES

This section analyses foreign HE providers' access to the private Malaysian market and their market engagement as offshore subsidiaries. It first maps and orders all subsidiaries according to their regulatory embeddedness and partnership strategies over time. Then, four exemplary institutions' FDI and market access strategies and how they reflexively change their geographical configurations are taken under closer scrutiny. The section closes with discussing HE providers' transnationalisation strategies in Malaysia in the light of conceptualisations from the first section and this study's contributions to academic debates.

Foreign actors' market access – Since 1996, regulations for private HE in Malaysia have allowed foreign providers to offer their services on the domestic private HE market by operating an offshore entity in Malaysia. Running this entity requires incorporation of or being shareholder in a Sendirian Berhad.

Hence, access to the Malaysian domestic market necessarily involves some form of foreign provider's cross-border investment and transforms providers into quasi-transnational enterprises. This kind of transnationalisation is independent from the providers' geographical-regulatory context of origin and legal status at home, no matter if the foreign provider has official university status or is organised as a public or private institution in its home country.

Yet, every provider and programme on the Malaysian private HE market is formally approved and licensed by the Malaysian MoE. As some of the foreign actors' offshore subsidiaries in Malaysia offer degrees co-issued by their foreign parent, these institutions are additionally accountable to a second regulatory body, the one that accredits the parent institution's qualifications in the foreign actor's home country. International business studies point out that this dual embeddedness in two regulatory systems and possibly required localisation of education services can translate into additional costs in coordination and administration (Shams & Huisman 2016).

Domestic partners' shareholding participation can range from marginal to dominant. A marginal participation could mean, for example, that the domestic partner's role is restricted to setting up and facilitating the institution's environment. It could also mean that the domestic partner has sold or rented out land and facilities to the transnational subsidiary but is not directly involved in funding or running the company. On the other hand, a domestic actors' dominant participation could mean, for example, that the foreign partner's role is limited to consultancy or branding activity. In between these two poles, there is the category of a joint venture. Joint ventures are run in collaboration, more or less equally, between foreign and domestic partners. Literature from management studies suggests that having a domestic partner helps transnational companies reduce entrepreneurial risk. But at the same time, it may increase transaction costs and narrow profit margins (Haugland 2010).

Figure 1 plots all foreign providers' subsidiaries on a timeline by the year the subsidiary was opened or transformed into its latest form (horizontal axis). The institutions are divided

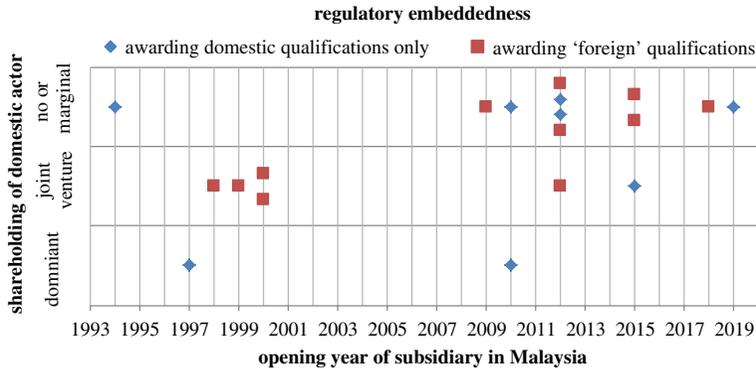


Figure 1. Foreign providers' subsidiaries in Malaysia by regulatory embeddedness, shareholding of domestic actor and opening year.

into two groups based on whether they are embedded in the Malaysian regulatory system only (blue icons) or in a second one (red icons). On the vertical axis, they are differentiated along the extent of a domestic partners' shareholding participation. The figure shows that approximately two thirds of the 19 subsidiaries have been opened after 2009. This indicates that on the Malaysian market, offshore subsidiary development has, in this mass, been a relatively young phenomenon, which has accelerated over the last 10 years. More than 40 per cent of the subsidiaries were set up between 2012, when limitations on foreign equity ownership were relaxed, and 2016. The two institutions set up afterwards were both established through mergers and acquisitions of existing providers and hence by-passed the moratorium.

More than half of the subsidiaries award 'foreign' qualifications and are dually embedded. These subsidiaries' parent institutions are predominantly from the UK or Australia. Australian institutions emphasise Australia's geographical proximity and affiliation to Southeast Asia that make offering an Australian degree in Malaysia attractive. For UK universities' subsidiaries, it is Malaysia's historic links with the UK that provides demand for British degrees and compatibility between the two education systems. This allows offering almost identical programmes at multiple locations, at containable costs of localising programmes. However, for the other half of the subsidiaries,

which are dis-embedded from their parent organisation's home contexts, opening autonomous HEIs offers an alternative route to market access. These institutions are rather young and rarely have domestic partners. Many of these foreign actors consider setting up HEIs 'from scratch' and tailoring services to the respective market appealing.

More than half of the foreign providers tend to forego participation by domestic actors. This indicates that foreign providers have responded to the regulatory window offered since the gradual relaxation of the foreign ownership equity cap. By operating subsidiaries more autonomously, HEIs have reduced transaction costs and taken on greater entrepreneurial risks. Those subsidiaries that are run as joint ventures are almost exclusively dually embedded. For the most part, these institutions entered the market before 2001. So, foreign providers that established their branch in the early days of offshore subsidiary development in Malaysia operated along rather predetermined and familiar lines: entrepreneurial risks were kept as low as possible, for example by teaching out of rented facilities, by partnering with a domestic actor as required and by offering programmes that had already proven their worth at the parent institution.

HE providers' reflexive strategies of offshore subsidiary involvement – The following four model examples represent forms of HE providers' engagement in offshore subsidiary

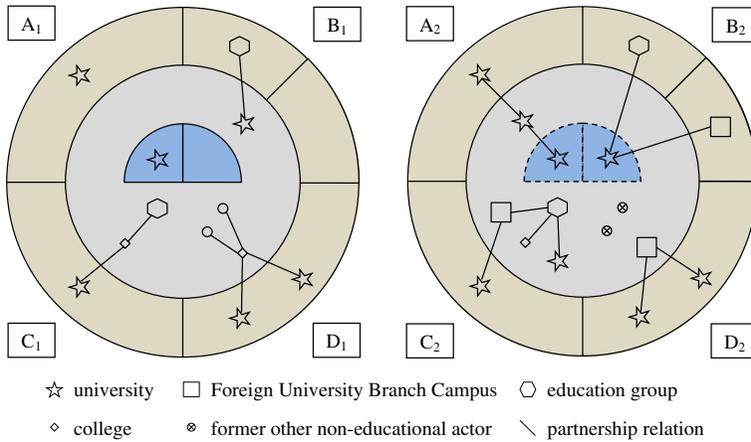


Figure 2. Inter-firm relations and offshore subsidiaries before (left) and after (right) providers' strategic adaptations and across different regulatory contexts: context of origin (brown), Malaysian private HE (grey) and sub-sectoral/ sub-nation-scale specific regulations (blue).

development. Figure 2 visualises these models and conceptualises relations (connector lines) between education providers and offshore subsidiaries (differently shaped icons) before (left part) and after (right part) providers' strategic adaptations to changing regulations. The circles backed in different colours illustrate different regulatory frameworks: the grey circle represents the Malaysian private HE market. Foreign education providers from different regulatory contexts of origin (browned backed) enter the market by running offshore subsidiaries in Malaysia, sometimes together with domestic actors. The blue semicircles represent further sub-sectoral or sub-nation-scale specific regulations for market participation, namely, restrictions and exemptions.

Figure 2.A_{1&2} illustrates Model A, the founding of Greenfield University in 2015. The blue backed star icon in Figure 2.A₁ represents MYPuU, a domestic public university, which is not allowed to run education business directly or offer its programmes on the domestic private HE market (grey circle) because of being directly governed by the Malaysian government and potentially conflicting interests.

Greenfield University (grey backed star icon in Figure 2.A₂) presents a joint venture form of subsidiary that opens up market access for both the domestic and a foreign partner. For

this, MYPuU Holding, the public universities' business sub-entity, partnered with UKPuU, a public university from the UK (brown backed star icon). With running Greenfield as an independent company, holding 50 per cent of the shares and including its subsidiary indirectly in the budget – MYPuU lets some of its premises to Greenfield on favourable terms – MYPuU started to circumvent its formal private market exclusion. For UKPuU, the Greenfield offshore subsidiary serves two segments of the Malaysian private HE market: as an independent private Malaysian university Greenfield offers its own autonomous Malaysian degrees to, by own statement, around 2,000 students. Additionally, Greenfield grants the UK-accredited UKPuU degree to those students who are willing to pay additional fees.

Figure 2.B_{1&2} symbolises Model B, NewFound University's spatio-temporal adaptation strategy. Figure 2.B₁ highlights NewFound Corporation (brown backed hexagon icon), a foreign-based education group with various subsidiaries worldwide. Without having full university status at home and awarding degrees itself, the education group was not able to access the Malaysian market for degree programmes via a Foreign University Branch licence and, thus, strove for opening an autonomous offshore subsidiary in Malaysia with a formal Malaysian private

university licence. In 2012, Local NewFound University (grey backed star icon), the group's first institution with official university status, got approval and was set to be located at UniArea, a specifically drafted and exceptionally governed zone (blue quadrant). UniArea provides exemptions on the Malaysia-wide moratorium on new university foundations. Yet, UniArea has committed all HEIs located there to subscribe to exclusivity clauses valid for ten years. These clauses prevent providers from offering similar, competing programmes and hence restrict them in their degree offer. Its location has confronted Local NewFound University with an inter-scalar regulatory challenge: while local-scale UniArea's exclusivity clauses aim at preventing NewFound from offering a broad range of programmes, the nation-scale MoE licensing procedures require all HEIs with university status to hold a minimal number of two faculties and provide various disciplines. NewFound met these challenges with a spatio-temporal bypassing strategy and tailored location choice: with buying land and building its future campus inside the UniArea zone, NewFound enjoyed UniArea's privilege to bypass the university foundation moratorium. Yet, with starting its operations outside the zone in rented premises nearby, the university has been able to provide diversified degree programmes necessary for gaining university status, while at the same time bypassing UniArea's exclusivity clauses.

Figure 2.B₂ visualises how the autonomous NewFound University enables both bending and bypassing Malaysian and foreign regulations on various scales. When UniArea's exclusivity clauses will have expired after 10 years after signature, NewFound would finish constructing its new campus and move into UniArea (blue backed star icon). Furthermore, granting more formal autonomy to its offshore subsidiary and adding NewFound University as an autonomous Malaysian university to the group, increases the corporate's prospect of future transnationalisation pathways: with NewFound University the provider has under its umbrella an institution able to venture into new markets and offer its Malaysian degree abroad (brown backed square icon). For symbolically positioning the university on students' maps all across

Southeast Asia, the local element of its name was deleted.

Figure 2.C_{1&2} shows Model C, upgrading Brownfield from a twinning agreement to a fully-fledged Foreign University Branch joint venture. Before 1998, the Australian public university AUSPuU (brown backed star icon in Figure 2.C₁) had a partnership agreement with the Malaysian EduCorpMY Group (grey backed hexagon icon), which enabled EduCorpMY College (diamond icon), then-highest classified entity under the EduCorpMY umbrella, to offer AUSPuU's programmes inside Malaysia.

When the PHEIA legalised the foundation of private universities and Foreign University Branches, AUSPuU and EduCorpMY re-configured their partnership and established Brownfield as a 50-50 joint venture (grey backed square icon in Figure 2.C₂). Whereas AUSPuU's programmes are now run at the Brownfield subsidiary, EduCorpMY's role is one of shareholding and management activities. With holding a substantial stake in Brownfield – the Foreign University Branch increased its capacities in the following years and has since grown to host more than 7,500 undergraduate students – EduCorpMY did not only manage to access and increase its revenues from the market segment for foreign degrees. Coupled with founding EduCorpMY University College in 2004, which later upgraded to EduCorpMY University (brown backed star icon) as another flagship entity under the group's umbrella, EduCorpMY substantially upgraded its own profile as one of the leading Malaysian education providers. It serves all segments of the private HE market, ranging from vocational to domestic and foreign tertiary education. While initially being located on EduCorpMY University College campus, Brownfield moved to its own fully-fledged campus nearby in 2007. Brownfield made room for EduCorpMY University to expand – physically, regulation-wise and market segment-wise. Furthermore, various business units are located at EduCorpMY Township, an urban district redeveloped by EduCorpMY: apart from education entities, EduCorpMY operates hotels, accommodation properties, shopping malls and an amusement park here.

This allows EduCorpMY to profit from both economies of agglomeration and further diversification of revenues.

Figure 2.D_{1&2} illustrates Model D, acquiring local partners' share in Takeover-M&A and upgrading the offshore subsidiary's formal status. α & β -EuroMeds are two autonomous universities in a European country (brown backed star icons in Figure 2.D₁) and award degrees from the umbrella awarding body Europe University. Even though competitors at home, they formed a partnership for establishing an offshore subsidiary: after a Malaysian public university had moved away its medical department in the previous decade, α & β -EuroMeds started to run Takeover-M&A as a local medical school (grey backed diamond icon) jointly with the RegioState Development Corporation and local entrepreneurs (circle icons) in 1996. α & β -EuroMeds did not only gain access to the local private HE market but also have been allocated a yearly batch of government sponsored medical students, which guaranteed stable demand and fees for the college's programme. With indirectly 'buying' foreign providers' services, RegioState ensured provision of local public services.

Yet, in the mid-2010s, α & β -EuroMeds acquired RegioState's and the individual partners' share (crossed out icons in Figure 2.D₂) and applied for upgrading the college to a Foreign University Branch (grey backed square icon). This upgrade allowed both awarding the foreign degree of Europe University in Malaysia and spatially re-organising the study programme: all students spend their teaching-intensive pre-clinical years one and two at the parent universities in Europe, so that economies of scale can be achieved with little curriculum localisation. Practice-intensive clinical years three and four are delivered in collaboration with local hospitals in Malaysia, sparing Takeover-M&A from maintaining large-scale training infrastructures.

Bending by bumping: foreign HE providers utilising multi-scalar relationalities – The empirical analysis links up with the theoretical pre-considerations from the first section, translating into two major contributions to economic-geographic literature. First, the

analysis adds to economic-geographic literature on marketisation and investment in public service provision by helping understand how and why foreign providers' adoption of TNC-like market access and FDI strategies is connected with and pre-shaped by state's regulation of domestic markets.

HEIs with different institutional and geographical backgrounds employ FDI strategies for offering HE programmes in Malaysia. These HEIs range from publicly funded to private entities and from research-oriented universities to corporate groups specialised in education. Transnationalisation of HEIs through establishing subsidiaries occurs in multiple forms: comparable with TNCs, foreign providers entangle with domestic shareholders and joint venture partners, and follow greenfield as well as merger strategies. And similar to TNCs in other highly regulated sectors (such as energy, cf. Ahmed 2010), HE providers develop and adjust market access strategies tailored to the dynamic regulatory host context: while early foreign investments were run risk-minimised, transnational education providers have increasingly employed forms of subsidiaries at higher risks and trend towards merger and acquisitions to access Malaysian private HE (Figure 1); a territorially-defined market that has become decreasingly restrictive in terms of partnership and ownership regulation, but increasingly regulated in terms of number of players and competition on the market. As HE in Malaysia is not included in GATS, global harmonisation of trade in services does rather marginally take direct effect on the multi-national scale (cf. Robertson *et al.* 2002). As sketched by the first expectation above, it is regulation on the nation-state scale that predominantly provides HEI transnationalisation pathways. While providers' contexts of origin are less relevant for the form of market entry, providers' adoption of TNC-like FDI and market entry strategies is principally shaped by territorial effects in the host market.

However, a national framework for TNHE regulation should not be seen as self-containing. When running offshore subsidiaries, the majority of HEIs organise programme provision across different systems and embed their services in more than one regulatory

framework (Figure 2). Thus, these frameworks are inter-related to each other but are not necessarily internally coherent. Inside domestic regulatory frameworks further sub-sector or sub-national-scale specific regulations may exist, such as separate regulations for domestic public universities or local development corridors. This may present research comparing nation states' 'regulatory regimes' as monolithic entities with challenges (cf. Mok 2008).

Second, the empirical findings provide economic-geographic literature on transnational actors' economic-geographical organisation and re-configuration with deeper comprehension of how and why providers take specific forms of transnationalisation and re-organise external and internal networks when facing territorial-regulatory challenges.

Malaysian state regulation of market access and FDI – understood as territorial effects – offers potential for providers to re-configure themselves as 'networks within networks' (cf. Dicken & Malmberg 2001). In order to establish subsidiaries in Malaysia, HE providers have engaged in partnerships and developed inter-firm networks. These key partners for market access often operate on the sub-national scale, such as local development agencies or private actors involved in local land development. Yet, when the limitation on foreign equity ownership as a central regulatory hurdle had formally been removed, providers took more dominant roles in inter-firm partnerships and more autonomous positions in extra-firm networks (Figure 1). Some providers even bought out their local business partners or took over their own franchise partner. This upgrading in extra-firm network hierarchies has stimulated firm-internal, transnational network re-organisation: providers start to re-structure and diversify the services they offer; they globally re-organise intra-firm production processes, utilisation of economies of scale and division of labour; or they upscale their services from local to global consumer markets. This goes beyond the second formulated expectation: when 'bumping' against territoriality on transnationalisation pathways (cf. van Meeteren 2015), HE providers are modifying both their external networks to leap regulatory hurdles and their intra-firm network to 'bend' their economic-geographical organisation.

Moreover, legal responsibility and enforceability of TNHE regulations may be based with different – maybe competing – government institutions, which vary in the geographical scale they operate on and over time. Domestic and foreign providers are utilising this given leeway strategically, dissolving tensions and by-passing incompatibilities between regulations (Figure 2). By bumping against territorial-regulatory contextures, it is the transnationally operating providers that are consequently unfixing and 'bending' these contextures. This blurs the idea that providers merely comply with regulatory frameworks (cf. Hou *et al.* 2018). Instead, providers' transnational engagements are – maybe even anticipatorily – acknowledged by FDI-channelling environments. Taking an economic-geographic approach to HE provider transnationalisation helps extend understandings of TNHE regulation as rather static frameworks by notions of FDI regulation as bendable contextures of multi-scalar relationalities.

CONCLUSION

The paper has shown that over the last 30 years, particularly since 2010, foreign providers have become increasingly involved in the Malaysian domestic private HE market through TNC-like investment strategies in off-shore subsidiaries. Universities with different institutional and geographical backgrounds have employed and modified business partnerships and bi-national accreditation to gain market access. State regulation of FDI and services is a territory-based contexture that providers bump against and strategically bypass or bend. At the same time, regulation provides transformative potential for transnational actors to deliberately restructure their firm-internal economic organisation and geographical configuration.

This first of its kind study of FDI and market access strategies in the HE sector informs further economic-geographic research in multiple respects: first, as shown, transnational providers' strategic partners are often stakeholders in local economic development or government-linked. Further research will

provide deeper understanding of how these sub-nation-scale actors concretely mediate regions' 'coupling' with global provider networks over time. Second, as discussed, while all foreign programmes are necessarily embedded in Malaysia via nation-state institutions' approval procedures, transnational providers do have leeway between localising and globalising certain elements of their global service provision networks. Additional analysis of these 'localisable' functions will reveal further levers for both providers and governments. Third, the Malaysian context provides only one example for transnational providers' market entry and investments. Governments' efforts to integrate domestic and foreign entrepreneurial activities into HE provision can be found worldwide. This paper provides a first vantage point for inter-contextually relating differences and similarities in these approaches to each other, while acknowledging the importance of geographical host contexts on the nation-state scale for providers' transnationalisation pathways.

This research can help develop more elaborated policy advice, as issues of corporate involvement in public service provision are pertinent – yet ambivalent – for governments and HEIs under financial pressure: foreign providers' offshore subsidiaries are, on the one hand, promising elements for emerging economies to satisfying domestic demand for foreign education and stimulating future domestic demand from foreign students. But on the other hand, if foreign providers concentrate on delivering those programmes that are easily scalable or largely relying on government sponsored students, domestic providers may be crowded out from these profitable market segments. Examples of foreign providers that have recently broken into the Malaysian private HE market by mergers and acquisitions suggest that government options to consolidate – arguably saturated – markets are limited. After all, stakeholders must be aware that the line of mutual benefits and responsible public service provision is fine, as profits from the private HE sector are sensitive to competition, demographics, volatile student demand as well as public debates on legitimacy.

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