



Government Policies and Private Higher Education

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Abstract

In many countries privatization in the field of higher education is gaining prevalence, and public monopoly of higher education is beginning to fade. Perhaps, many PHEIs have the primary role of paving access to higher education opportunities with a corollary business oriented role. As specific, definite, and flexible rules are crucial for the *dejure* existence of PHEIs, the government is there to handle the regulatory aspect.

The 1994 Education Policy of Ethiopia encourages the involvement of the private sector in the dissemination of education. However, the policy is set in general terms and silent on specifics such as organizational set up, roles and prospects of PHEIs. The Ministry of Education of Ethiopia, mandated by Proc. No 4/1995 and proc. No 256/2002 issued a directive in August 2002 (the final amended version) on the nomination, standard evaluation and accreditation of higher education institutions. This directive sets minimum standards and plays a regulatory role for both public HEIs and private PHEIs.

The main objectives of this study are to consider and scrutinize pertinent provisions of existing educational policies and regulations considering the applicability, efficiency, feasibility and impact of the policies on the development, predictability and adjustment of PHEIs in Ethiopia.

1. Background

1.1 Introduction

Education is very crucial to nurture productive, potential and responsible citizens. Especially higher education greatly enhances one's economic and social future. In addition, the role that education has in the economic, social and political development of a nation cannot be underestimated.

A few decades ago, private higher education was absent or had a marginal role in many places of the world. Whereas today it captures a major or fast increasing portion of

enrollments in Eastern and Central Europe, the Middle East, both North and Sub-Saharan Africa, East and South Asia, and Latin America.

Recently, privatization in the field of higher education is gaining prevalence and public monopoly of higher education is almost fading in most countries. The rapid proliferation of private higher education institutions is commonly attributed to the growing demand of higher education exceeding the supply of public "free" higher education. Where public budgets do not meet the rapidly growing demand for higher education, students pay for alternatives. Perhaps, many private higher education institutions have the primary role of paving access to higher education opportunities with a corollary business oriented role.

There are serious debates on how private higher education institutions should play their role, on the impact of government policy on the proliferation of private higher education institutions, on privileges, impediments and challenges of regulations on PHEIs. As a result, private higher education institutions have become an important area of inquiry for many developed countries. On the other hand, in developing countries, private higher education institutions are a recent development and there is little inquiry in the field. In Ethiopia, private higher education institutions have had half a decade journey, evolved as a sudden coincidence though prompt. So, the government reacted to this radical evolution by issuing a series of regulatory rules.

Since policies and regulations erect the legal framework of higher education system and determine the prospect and predictability of private higher education institutions, the importance of feasible policies and regulations is reflected. To this end, the paper examines the existing regulatory picture of higher education with particular reference to private higher education institutions vis-à-vis internationally accepted standards and the actual situation of the country. Therefore, this study was initiated with the objective to consider and scrutinize pertinent provisions of the existing higher education policies and regulations, with particular reference to PHEI, with a view to assess the applicability, efficiency, feasibility and impact of these policies, regulations and directives. It is also intended to identify the pros and cons of the legal framework and propose scholarly suggestions and possible remedies.

1.2 Acronyms

Art.	Article
FDRE	Federal Democratic Republic of Ethiopia
HE	Higher Education
PHEI	Private Higher Education Institution
MOE	Ministry of Education
UDHR	Universal Declaration of Human Rights

2. Scope and Limitation

As the paper hovers on policy and regulatory issues, the writer would attempt to address certain elements that higher education policy framers should take into account and the Ethiopian regulatory aspects of PHEIs. And few issues on the new educational policy of Ethiopia would be highlighted winding up eventually by some concluding remarks.

It is the writer's belief that the paper can serve, at least, as a call for a detailed research on the topic. Since the topic is a new area of enquiry, and quite wider, certain issues are not exhaustively dealt with as a result of which one can come across open-ended issues on the course of this paper.

3. Methodology

The study employed both primary and secondary data sources. While interviews constituted the primary data source, review of written documents like UDHR document FDRE constitution, directives on nomination, standard evaluation and accreditation, various proclamations and articles on private higher education form the secondary data source. The data gathered were analyzed through synthesis and inductive mechanism.

4. Review and Synthesis of Literature

4.1 Fundamentals Worth Considering by HE Policy Framers

The primary role of HE is a skilled, problem solving and knowledgeable human resource development that capacitates the effective utilization of the potential resource of a country. Castells (1997), a noted social theorist, once argued that if knowledge is the

electricity of the new informational economy, then institutions of HE are the power sources on which a new development process must rely (Infante, 1997). This theorist emphasizes the role of HE in the economic development of a nation. But, there are a number of challenges facing these institutions that hamper them not to effectively play their roles in economic development. Today, some of the major challenges facing the HE system in developing countries are:

- 1 challenges related to access (equity) coupled with success
- 2 the HE quality deterioration
- 3 failure to be responsive to societal diverse interests
- 4 lag from information technology
- 5 financial problem
- 6 deficiency of intellectual resource
- 7 specialization problems
- 8 problems of co-ordination

To tackle all these challenges and to curb the repercussions that these challenges entail on the HE system, among other denominators, the legal framework has to be designed in such a way that the real role of HE is attained. Among other things, this role is attained through a series of rules and regulations. Of course HE has to be regulated, but the fundamental issue is how to regulate it. What should policy framers take into account to meet the demand of HE system and to make it function? What should the government's input be and what should the private sector's input be? How should the private sector of HE complement the public HE sector? What should the societies input be towards HE? Should HE be only the business of the government? If there is a gap between HE performance and state needs, how should it be resolved (remedied)? What does the state need or expect from HEI? (Daniel, 2002). How should gaps (lacunas) of inaccessibility be filled? And other issues should be dealt by HE law & policy framers. Hence, some of the important points worth considering by the framers of policies and regulations are the following:

- 1 consider mechanisms enabling the effective utilization of limited resources and accountability (Infante, 1997).

- 2 consider the equity of access, success, redress, and affordability (Newman and Couturier, 2001). Fair opportunities both to enter HE and to succeed; and a programme of transformation, which involves measures of empowerment, including financial, material and infrastructural support to bring about equal opportunity for individuals and institutions.
- 3 address national demands and diversified interests
- 4 ensure coherence of HE
- 5 exert maximum effort towards the assurance of robust and timely implementation of key policy instruments because implementation vacuums can lead to unanticipated and unintended consequences (Infante, 1997).
- 6 consider market influences, realities, changes Policy framers should seek to balance the influence of the market in ways that promote general welfare. One thing to bear in mind is that the market force should not be balanced by an excessive regulation as it can stifle competition, encourage cartel like behavior, raise prices and cost, and diminish student choice (Daniel, 2002). However, moderate regulatory aspect is credit worthy. Encouraging competitive climate, promoting innovation, enhancing quality with a sense of transparency and accountability. This goes hand in hand with the principles of a democratic system.
- 7 appreciate the role of the private sector and open a room for the realization of this role. However, the burgeoning PHE sector requires more stringent regulation to ensure that it complements the public sector and contributes to the over all resource needs of the country (*Ibid*).
- 8 consider state policy priorities. State's prior needs and targets are set in public policies. It is up to the legal framer of HE to consider these and 'make' HE policies coherent or 'apt' to these state policy priorities. The policy maker has to be able to respond to the query- what is the state prior policy and how does HE make those prior policies realized? This could be through economic, or political means.
- 9 implement dynamic and flexible approach to planning instead of rigidities (Newman and Couturier, 2001). As discussed earlier strict regulations and cumbersome institutional governance discourage innovation and change.
- 10 uphold cost distribution (sharing). Cost sharing aspect depends on the capacity of

the state to support HE or the proportion of state budgets devoted to HE. In the States and European countries cost of HE is shared. In both public HEI and private HEI students share the cost of HE; the only difference is in the latter the cost is less affordable. In developing countries, cost sharing is a recent phenomenon.

HE cost sharing has something to do with creating equitable access and sense of responsibility. As a citizen is responsible to pay tax for the benefits gained for the purpose of common good, a citizen is also responsible to share the cost of HE either directly or indirectly, in the short run or in the long run, for the equitable distribution of HE, and thus for the common good. This cost sharing strengthens the financial set up of institutions. Hence, HE can cease to be the privilege of the few and denial of the mass. In general, policy and lawmakers should address these fundamentals robustly before making a leap forward to set the legal framework of HE.

4.2 A Glimpse at the Ethiopian Regulatory Aspects of HE

As explained by experts in MOE, prior to the issuance of the Directive on the Nomination, Standard Evaluation and Accreditation of HE by the Ministry of Education, which is mandated by Proclamation No 4/1995 and Proclamation No. 256/2002, there was no as such organized/structured document for the regulation of HE.

However, the need for the issuance of the directive arose as there was no specific document for the regulation of HE. The 1994 General Educational policy of Ethiopia only sets general framework for education. It does not have specific provisions addressing HE. It is silent on specific details, such as how private HEI satisfy the educational demand, what roles they are expected to play, what structural and organizational setup they should have and how they should be regulated. Especially, according to the views of experts of MOE, the urgency of the need to issue that directive is attributable to the radical and rampant participation /involvement of the private sector in HE. Due to these factors, as explained by the official of the Ministry of Education, the newly introduced directive which is under implementation was enacted basically to regulate and react on private HEI. The directive sets minimum standards of HE and accreditation criteria for both Private HEI and Public HEI.

Based on the views generated from one of the concerned officials of the Ministry of Education, it was found out that to issue an accreditation to private HEI, the MOE evaluates curriculum, staff profile, physical facility and financial viability against the standards set in the directive. Of course, according to the same individual, this directive has solved the problem of arbitrariness that was a problem before the issuance of the directive. In addition, the MOE by issuing accreditation to private HEI up on 80% or even below fulfillment of the standard witnesses flexibility. Nonetheless, the issue is how can a common minimum standard be set for both private HEI and public HEI? Is private HEI on equal footings with public HEI, even if a common role is played?

Basically, among other things, there are four prominent factors of disparity between private HEI and public HEI. These are presented in Table 1 below.

Table 1 Factors of Disparity between Private and Public Higher Education Institutions

<i>Factors of Disparity</i>	<i>Private HEI</i>	<i>Public HEI</i>
Evolution	½ a decade accomplishment	Pioneer
Finance	Private	Public
Student profile	Low	High
Societal attitude	Stigmatic (pessimistic)	Positive attitude

Is it pragmatic/or realistic to set a common standard with this considerable disparity? Perhaps, the manifestation of flexibility by the MOE in giving effect to standards is a sort of redress to the existing disparity. But, why is the need to set regulations prone to implementation or less pragmatic? According to the views forwarded by one higher official of St. Mary’s College, it was disclosed that the standards set are very much high for private HEI, if they are strictly followed, no private HEI today could have secured accreditation. And, implementation by the MOE has geared up the minimum standards into maximum standards.

4.3 Certain Regulatory Aspects of the New Ethiopian Draft HE Proclamation on Private HEI

1. Institutional Autonomy

Institutional autonomy is about the independent control of an affair of the institution. Under Art. 7 of Higher Education Proclamation, 2003, institutional autonomy of HE

institutions is specified to encompass autonomy in:

- Human resource management and administration of personnel including recruitment.
- Financial administration
- Subject to approval by the appropriate body, setting one's organizational structure
- Establishing relations with local and international counterparts.

Institutional autonomy being granted in this fashion, what is the relevance of the provisions under Art. 22 -26; and other similar provisions. For instance, Art. 26 of Higher Education Proclamation, 2003 states any institution shall have the necessary administrative support staff outside from the academic and technical administrative staff. So, where lies institutional autonomy on administration of personnel. Hence, it can be induced that by regulating every bit of it, institutional autonomy cannot be assured.

Besides, Art. 94(5) under the powers and duties of the MOE, states that the Ministry shall devise means for resolving administrative and financial problems of institutions with the help of a Board. Again, where lies the administrative and financial autonomy of institutions, particularly private HEI? There are also similar provisions that jeopardize institutional autonomy of private HEI.

Under Art 7(3) of the same proclamation, academic autonomy of institutions is also incorporated. But there is not the slightest clue about what academic autonomy is and to what extent it could go. All these things are not defined in a vivid manner. Hence, it opens a wide room for misinterpretation and invites arbitrary conception.

There are criteria set for the status of a university, University College, college and an institution. In the New Draft Proclamation on Higher Education (2003), there is a mandatory provision which states *"the name and status of an institution established as university shall be designated by the Ministry fulfilling the criteria set"*. Literally speaking, a university is nothing but a high level of educational institution. So, can't promoting private HEI to a high level of educational institution fall under the realm of institutional academic autonomy and the designation be left to institutions that have succeeded in promoting their academic institutional status to a higher level?

4.4. Accreditation

According to the definition given in the Advanced Learners Dictionary, accreditation is the primary means by which the quality of HEI and programs is to be assured. In the US, accreditation is carried out by private, non profit organizations (US Council for HEI Accreditation, 2002). The requirements for accreditation may be found in the standards and policies of accrediting organizations. While each accrediting organization establishes its own standards by which institutions and programs are accredited, these standards all address similar areas, such as expected student achievement, curriculum, faculty, services, academic support for students, and financial viability.

Apart from these, in the US, accrediting organizations lay out a framework of expectations and practices that govern the conduct of accreditation review. Accrediting organizations have mechanisms by which an institution or programme that is dissatisfied with a review may express its dissatisfaction and seek redress (appeal). Accrediting organizations also describe the terms and conditions under which a complaint can be lodged against an institution or programme that is accredited. Standards are developed or changed through the process of public consultation involving facilities, administrators, students and other members of the community. However, in the Ethiopian HE accreditation system, issuance of accreditation is effected by the MOE. The minimum standards set are almost similar with that of the United States. What is peculiar to the Ethiopian case is accreditation has two phases as put in the HE Proclamation (2003) - Pre- accreditation temporarily granted for one year and full-fledged accreditation to be provided later.

The Proclamation on HEI under Art. 78 has also stated the need for the establishment of an agency (relevance and quality of educational assurance is followed up by the agency), which supervises, as its name dictates, the relevance and quality of HE. It is reasonable to pose a query: why is the need for putting phases in the accreditation process necessary while the formalities and procedures being followed are similar in both phases? Why should institutions pass through these two similar phases? It is the writer's opinion that one year gap between the two phases is necessitated for the agency to make proper inquiry and evaluation for the sake of quality assurance. Till then, institutions can run their activities by the temporary pre-accreditation permit.

Perhaps, under Art. 74(4) of the same proclamation, there is a mandatory provision that states “*denial of permission of accreditation shall be published in any nationwide medium of communication*”. This provision seems to suffer from transitional medium (period) between appeal and final decision of the Ministry. Worst of all, the publishing devastates the credentials of Private HEI and over all it has a discouraging and uninviting effect. Frustrated by the harsh consequence of the denial of accreditation, a private HEI can refrain from pursuing accreditation initiatives.

4.5 Few Issues on the New Educational Policy

A citizen’s right to education is addressed both in the 1995 FDRE Constitution and under the second class of rights (Economic, Social and Cultural Rights) in the 1948 Universal Declaration of Human Rights. Art. 90 (1) of the FDRE constitution has the following statement: “*to the extent the country’s resources permit, policies shall aim to provide all Ethiopians access to education, health and housing*”. Similarly, the UDHR Art. 26 and 27 lay that “*every one has the right to a free elementary education, reasonable access to available technical and higher education*”.

The phrases “*to the extent the country’s resources permit*” and “*reasonable access to HE*” are worth underlying. In developing countries where the resource is meager, the noble task of expanding ordinary education or HE left solely on the government's shoulder is less pragmatic. The general educational policy of Ethiopia encourages the involvement of the private sector in the dissemination of education. Quite specifically, the new draft proclamation on HE reaffirms in its preamble the need to maximize the role of the private HEI in the promotion of HE and research. This being the general legal framework, currently the FDRE Government’s prominent capacity building package is the expansion and assurance of quality education-especially HE (HPRE, 2003). This package has the tendency of opening a new chapter on the educational arena. For the realization of this package, certain preparations are underway and plans set, such as:

- 1 construction of universities and colleges.
- 2 expansion of distance education
- 3 curriculum revision
- 4 input of modern information technology

- 5 input of foreign professionals
- 6 expansion of technical and vocational training

Hence, there is a plan to promote the enrollment figure of students in public HEI to 24,000-28,000 by 1996 E.C which was only 3000 before. In addition, the objective of this new education policy of Ethiopia is to ensure the access of HE to all citizens in the public HEI (HPRE, 2003). But, where does the need lie to maximize the role of private HEI in the expansion of HE? Why doesn't this package consider significant input of private HEI? Is it lack of dependability on private HEI both quality and quantity wise? The government has set quality assurance standards for private HEI and recently to make that effective an agency that assures quality of education is established by the Higher Education Proclamation (2003). If the government has this quality checking mechanism, would dependability /reliability be an issue?

According to HPRE (2003) the model for the new educational policy for Ethiopia is adopted from England, and that policy has proved its success in England. The point is, does this fact warrant its feasibility in Ethiopia? However, the following frustrations could be traced to the feasibility of the policy:

- 1 Limited resource of the country both financial and material,
- 2 Costly input of skilled and professional human resource,
- 3 Repercussions on other developmental sectors.

5. Conclusion and Recommendation

The Right to Education is one of the fundamental human rights enshrined in the FDRE Constitution and the UDHR, to which Ethiopia is a signatory. But, every right does not entail absolute duty. In the normal course of events, limitations are realities that cannot be denied. In effect, a country strives for respect of educational right of citizens, i.e. ordinary education (wider access) and higher education (a reasonable access), to the extent its resources permit.

HE, which is the pillar of economic, social and political development, needs a serious inquiry. In many developed countries, governments have implored the engagement of the private sector in the equitable distribution of HE. In other words, equitable distribution of

education is not merely founded on a government's investment or resource. Nonetheless, that does not imply that the government should not invest much on HE. The issue is let the government open a wider gate to the maximum engagement of the private sector in HE, so as resources could be fairly shared. Currently, the Ethiopian current package manifests significant government absorption of HE and seems to underscore the role of private HEI in the expansion of HE. In this regard, some degree of incoherence is observed with some of the provisions of the general educational policy and the proclamation on HE, where these instruments apprehend the need for maximum role of the private sector in HE.

The other issue is, even if the HE proclamation appreciates maximum role of private HEI, some regulatory impediments and bulky procedures make this role illusory. Of course, the government has the duty to protect the consumer through regulatory aspects on private HEI by issuing policies and regulations. But policies and regulations should neither be loose nor tight. Both extremes do not work. Policies should be fair, flexible, moderate and reasonable. Along this line, policies ought to consider market forces. This holds true especially in a market driven economy where the market is there to regulate. The market is the watchdog of a market-oriented economy, and screens the fittest from the unfit; consumers flock to the fit and eventually the unfit vanish.

If policies and regulations dominantly regulate private HEI and leave little room for the market to regulate, stiff competition, innovation for change and prosperity would remain a dream. In fact, the government of Ethiopia employs the input of the market in regulating the cost of private HEI. The government does not interfere to fix the cost of private HEI in a free market economy. Dualistic approach (input of policies and regulations along with market forces) in government's regulatory aspect is commendable.

However, even if this dualistic approach is employed, excessive procedures and state regulatory aspects have certain repercussions on the prospect of private HEI. For instance, some bulky procedures, unrealistic standards that do not take into account elements of disparity between public HEI and private HEI, in accreditation of private HEI, are impediments worth lifting or improving upon detail research analysis. Or else,

incentives should balance certain impediments so that private HEI could cope with.

Last but not least, policies and regulations should target state policy priorities, needs and real resource capacity of a country. Policies should be evaluated vis-à-vis real and concrete situation of a country.

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