

The Private Higher Education Regulation in Ethiopia: Jurisprudence and Practices

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Abstract

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Well-regulated education is a powerful weapon for positive social change. Ethiopia formally allowed private actors to join the education industry in 2003. Since then, private higher education institutions have grown in number and enrolling capacity. This is a huge success in ensuring access to higher education to support country development through the provision of skilled manpower. However, because of weak regulation, there is a claim that private higher education institutions are working as a degree mill which negatively impacts the quality and relevancy of higher education. Having this in mind, this article examines the effectiveness of government regulation of private higher education institutions during the entry, operation and exit stages. To this end, relevant laws and policies, reports, government decisions, and literature are critically examined sideline with primary data collected through case studies and direct observation of private higher education institutions. As the findings of the study have revealed, despite the positive reform and development underway, the government regulation of private higher education institutions is ineffective and because of this, education which is recognized as a means of ruining social problems is ruined by bogus institutions and degrees. Mainly this problem is associated not with normative gaps; rather it is a result of weak enforcement as a result of the institutional weakness of relevant authority to efficiently undertake its mandate of licensing, accrediting, supervising, monitoring, and auditing. Besides, the government lacks a firm stand and strong commitment to take deterring measures against bogus institutions and graduates holding fake degrees. Based on the findings, the researcher called for strict enforcement of laws by strengthening the Authority with manpower and finance and adopting a holistic approach to fighting for the quality and relevancy of higher education.

Keywords: Higher Education, Quality, Relevance, and Regulation

1. INTRODUCTION

Education is an engine of positive development in all respects (Rivera-Batiz, 2008; Tefera, n.d.). In attaining these overwhelming goals, higher education institutions (HEIs) play a huge role through the provision of quality and relevant education, research, and community services (Fumasoli & Rossi, 2021; Gregory Ekene & Oluoch-Suleh, 2015; Leocadia, Norman, Jenny, & Abiodun, 2019; Walter Leal Filho et.al, 2019). To utilize this engine, Ethiopia has adopted various education policies, strategies, and laws. For a long period, HE has been regarded as a public good in terms of externalities or benefits to society. To maximize its positive impact, countries have been investing billions of dollars in HE every year. In Ethiopia, a significant portion of the country's budget goes to education. For instance, in 2020/21, 2021/22, and 2022/23 the budget allocated for education is respectively 56.8 billion ETB, 66.1 billion ETB, and 64.7 billion ETB(UNCIEF, 2021). Relative to the increasing total budget of the country (293.7, 345.7, and 787 billion ETB in the last three financial years) and skyrocketing inflation, the amount of budget allocated for education has been reducing both in nominal and real value terms.

The paradigm of treating education as a public good has been influencing the regulation of HE for a long time. Over the past several decades, globally, HE systems have gone through significant changes concerning institutional arrangement and regulation. The increasing demand for flexible HE that private providers offer, the reduction of government funding, the rise of market ideology, and the advancement of technologies are the main driving forces for such changes. These developments challenged the long-cherished and well-established view of HE as a public good and the way it was governed and provided. The conception of the market paradigm which supports privatization and marketization has created a conducive environment for and resulted in a proliferation of Private Higher Education Institutions (PrHEIs) across the globe, particularly since the 1990s (Fayyaz & Sarwar, 2021). The number of PrHEIs continues to grow at a remarkable rate and even outnumber Public Higher Education Institutions (PuHEIs) in countries like Ethiopia(Seleshi, 2022). In 2018, one in three students globally was enrolled in PrHEIs. In countries like India (58.3%), Brazil (72.7%), Japan (78.6%), Indonesia (58.2%), South Korea (80.7%), and the Philippines (60.8%) the enrollment capacity of PrHEIs is greater than the public one. Public HE dominance has been shrinking.

In Ethiopia, following the reintroduction of the market economy in the 1990s, the demand for educated manpower grew considerably and in response, the number of private education providers increased remarkably. The 1994 Education and Training Policy (ETP) was adopted to address the problems of the previous educational system. The policy served as a major framework for reform carried out, and significant changes registered in the education sector. These reforms include changes in the education structure, curriculum, programs, size, and legal and regulatory frameworks. Different general and specific policies and strategies including the Growth and Transformation Plans (GTP) and the Ten Years Development or Prosperity Plan relevant to the HE industry have been adopted and implemented. In Ethiopia, the expansion of HE underwent unprecedented growth, especially after the 1990s. Currently, there are 55 PuHEIs and 325 PrHEIs (universities, colleges, and institutions) operating in Ethiopia. More than 800,000 students are enrolled in HE relative to less than 1000s and 20,000 in the 1950s and 1990s respectively. Unity University College was established as the first PrHEI in 1991. Most HEIs are a result of the government's expansion policy and the active involvement of private actors in the last few decades. Despite their numbers, the student's enrollment in PrHEIs is lower than in public HEIs because of limited enrolling capacity, active government involvement in HE at lower cost, and low income of the society to afford the service from private providers (Tefera, n.d.).

The proliferation of PrHEIs questioned not only the public good nature of education but also the effectiveness of the traditional approach to regulating HE. Expanding HE without compromising its quality and relevancy requires strong and sound regulation. Despite the approach adopted to expand access without compromising quality, the quality and relevancy of HE have been moving down (Girma, 2019; Mulu, 2012; Yirdaw, 2016). This triggers questions about the effectiveness of existing policies, laws, and regulations to ensure the quality and relevancy of private HE. In this sense, this article aims to explore the effectiveness of existing policies, laws, and regulators to ensure the quality and relevancy of private HE. To attain this overall objective and examine the jurisprudence and practices of regulating the private higher education industry in Ethiopia a combination of interviews, direction observation, case study, and a desk-based analysis of relevant laws, policies, reports, and literature were used. In this sense, the relevant legal instruments including constitutions, proclamations, regulations, directives, and federal cassation decisions are examined in light of primary data collected from government officials, leaders of private education institutions, students enrolled, and parents using interviews and direct observation. A case study of PrHEIs operating in Ethiopia is also conducted to pierce the reality behind the veil of the private HE industry. The corrective measures taken by ETA in recent years are also examined. Besides, an analysis of existing related and relevant literature is done. The study is limited to analysis of fundamental regulatory concerns during the entry to, operation in, and exit of PrHEIs from the market. Finally, this article is classified into four sections which present the introduction, notion of HE, regulation of HE, and concluding remarks.

2. ANALYTICAL FRAMEWORKS

2.1. Higher Education: Private Vs Public Good Dichotomy

Under the 1960 Commercial Code of Ethiopia, rendering educational services was not recognized as a commercial activity. Till 2003, no law permits the engagement of private institutions in rendering HE services. The first legal framework for private HE was the 2003 HEP. Despite these, the first private HE i.e., Unity University College predated the proclamation and was established in the 1990s. Under the new 2022 Commercial Code, the provision of educational services is expressly incorporated as one business activity carried out by traders. This does not mean that education services are rendered only by commercial firms, but also by government and nonprofit firms. The provision of HE is one meeting point in which all actors of the economy including government, business organizations, individual traders, cooperatives, CSOs, and religious organizations operate for profit-making, and/or social impact.

The declaration of education as a commercial activity as well as the engagement of various actors in the industry is not a problem *per se*. Rather it poses confusion over the issue of whether HE is a public or private good and thereby complicates government regulation thereof. The public-private distinction in HE has been a fundamental area of debate fueled in part by the growth of the private HE sectors (Bernasconi, 2011). The major issues of the debate are related to what constitutes the public versus the private good ranging from ownership to characteristics of the goods (Mulu, 2012). Conceptualizations of the public-private dichotomy were rooted in liberal economics and liberal political philosophy (Marginson, 2012; Simon, 2011, 2018; Williams, 2016). Both perspectives treat public and private as mutually exclusive concepts, in which liberal economics associates the *public* with not a natural market and political philosophy associates the public with the government (Marginson, 2007). In liberal economics, public goods are conceptualized as non-rivalrous and can be consumed by any number of people without being depleted and non-excludable goods, whereas private goods refer to rivalrous and excludable goods (Marginson, 2007). In liberal political philosophy, the public is government-owned, whereas the private is private-owned and subject to pricing (Hrsg & Hrsg, 2007). For the liberal

economist, HE is a natural private good and should be marketed, whereas, in liberal political philosophy, it is a public good (Marginson, 2007). The liberal economics view tends to downplay the potential for collective goods in HE and the liberal political philosophy underestimates the role of markets.

In recent years, scholars have been criticizing the dualistic nature of the private-public divide in HE based on the social character of the outcomes. Accordingly, public goods are conceptualized as goods that have a significant element of non-rivalry and non-excludability, and goods that are made broadly available across populations, whereas goods without such attributes are private. Regarding HE, private and public goods are produced in the same organizations committed to education, research, and community services, though they are heterogeneous from each other. The core missions of university *research and teaching* are associated with both public and private goods (Marginson, 2011). Accordingly, the research output of universities-*knowledge* is considered a predominantly public good, though there is a moment of excludability and rivalrousability when it is first created and disseminated. Similarly, teaching in PrHEIs where there is a rising scarcity of places is considered private, whereas teaching in less selective universities is considered a public good (Mulu, 2012). This shows that HE produces a complex and variable mix of public and private goods, whether its ownership structure is exclusively public, mixed, or exclusively private. As multi-dimensional and multi-product organizations, HEIs acquire elements of publicness and privateness regardless of how they are governed, financed, owned, and functioned. To put it differently, both public and private HE organizations allow for private as well as public benefits on investment to a varying degree, which results in a blurred border between the two sectors (Nega, 2017).

2.2. The Implication Public-Private Dichotomy

Higher education in Ethiopia is broadly classified into public and private HE (HEP, 2019). PuHEIs are institutions whose budget is allocated by the federal or regional government (HEP, 2019). PrHEIs refer to non-public HEIs established or owned by one or more individuals or nonprofit associations, cooperative societies, or commercial associations (HEP, 2019). The major difference between the private and public HEI is its main source of funds, ownership, manner of establishment, and management. PuHEIs are public-owned and financed institutions established and managed by the government. Generating a profit is not the prime purpose of public universities and hence the public good feature of educational services is clear. Private universities are financed, owned, and managed by self-interested or selfless individuals. In this sense, nonprofit PrHEIs provide educational services as a public good to positively impact society while for-profit PrHEIs render education services principally as a private good with the aim of profit generation. Despite the dichotomy, public and private HE providers are commonly required to meet the quality and relevance imperatives. Besides, an enabling policy and legal framework are crucial for the private HE sector to play a key role in addressing social demand and contributing to socio-economic development (Nega, 2017). However, the existing rule of the game is not fairly treating both public and private providers in terms of student admission, quality regulation, and other policy incentives. The degree of government regulation also differs across the sector.

2.3. Model of Higher Education Regulation: Fitting Model?

As the study of countries' experiences and different works of the literature reveals the main models of regulation of HE are the "State Control Model" or "Model of Rational Planning and Control", and the "Model of Self-Regulation" or "State Supervisor Model" (Faccenda, Ross, Philip, & Faccenda, 1975; Huisman, Boer, Dill, & Souto Otero, 2015; John & Norman, 2008; Van Vught Frans A, 1995). The model of the regulation adopted has an impact on the overall state's regulatory design.

2.4. State Control Model

The state control model is traditionally found in continental Europe. For a long time, in continental Europe, the governments, with all the existing variations, have been the prime and powerful regulators of HE. Per this model, the government controls nearly all aspects of the HE system including institutional mandates and staff appointments (Frans van, 1993; Gazi Mahabubul, 2010; OECD, 2003; Roger, 2006). The Government particularly the Ministry of Education and its agencies with limitless steering capacities seeks to control HEIs. The PrHEIs are tightly regulated. A defect in regulatory competence, subject the model to criticism. Tight regulation hurts the performance and innovativeness of PrHEIs. Though PrHEIs quest for more autonomy and minimal state control, the private HE market is not perfectly competitive. They have been subjected to market failure constraints. The issue of whether the current state of government regulation of PrHEIs in Ethiopia falls under this model is questionable as the monitoring and supervisory capacity of the Ministry of Education (MoE) and Education and Training Authority (ETA) is weak.

2.5. State Supervisory Model

The general governance model of self-regulation is linked to the state supervisory model that has its roots in the United States. The government sees itself as a supervisor, steering from a distance and using 'broad terms' of regulation (Roger, 2006; Yirdaw, 2016). It stimulates the self-regulating capabilities of HE institutions. Each university and college is allowed to decide upon its admission, its curricula, and the hiring of its faculty. This model emphasizes the self-regulatory capacities of PrHEIs. Government activities are limited to monitoring the performance of the overall system of the interrelated self-regulating decision-making units and to evaluating the rules which to a large extent define this performance. The government's role in this model is one of being an arbiter and 'game designer'. The government watches the rules of a game played by relatively autonomous players and changes these rules when the game is no longer able to lead to satisfactory results. In the self-regulation model, greater autonomy is devoted to private HE with the hope that the conduct of actors would be shaped by market forces. In addition to the operation of the market, this approach requires a commitment of private actors toward assuring relevancy and quality of education. Where there is prevailing quality and relevancy-based healthy competition between PrHEIs, this approach is good.

2.5.1. Fitting Model? Carrot and Stick

During the last decades, several governance reforms have taken place in HE systems (Yirdaw, 2016). The transformations worked out differently. The traditional state-supervising model has moved towards a state-control model, whereas countries with a state-control model have shifted toward state supervision has become visible. The shift from the traditional model of regulation is one if not conclusive indication of the dearth of conservative state control and self-regulation. In continental Europe, the government's role has become evaluative rather than directive. In the United States, an increase in government authority is moving towards 'adaptations of market control mechanisms' such as outcomes assessment legislation and performance-based funding. The model of state control is based on assumptions that are at odds with some of the fundamental characteristics of HEIs such as the high level of professional autonomy. The self-regulation model lies on the assumption, that private HE self-regulatory capacities. This model is odd with the public good nature of education and may be manipulated by the owners' opportunistic behaviour. In a country like Ethiopia where there is information asymmetry and profit-focused competition prevails among private education providers, there is a need for more state interventions. As a result, a pure supervisory model in which the role of the state is limited to directing is not enough. In addition to the directive role, the government must play an evaluative role to supervise and monitor the operation and performance of PrHEIs against predetermined guidelines. However, due care must be taken to balance the autonomy of PrHEIs and the public interest represented by the state regulatory power. The state monitoring, controlling, and regulating

activities should be without daunting the PrHEIs' necessary autonomy and flexibility. Nowadays, the quality and relevance of education provided by PrHEIs are under question. As a report made by ETA shows, there are more than 150,000-200,000s illegal credentials (Dawit, 2022a). The MoE, ETA, PrHEIs, and even the students have their role in the quality and relevancy crisis that faced the sector. Against this backdrop, in the subsequent sections, the effectiveness of government regulation of PrHEIs in Ethiopia is examined.

3. FINDING AND DISCUSSION

In Ethiopia, since 2003 the government has shown its firm stands in recognizing the need for regulating PrHEIs. However, the effectiveness of government regulation of PrHEIs is subjected to criticism. Having this in mind, the state of government regulation to ensure the quality and relevance of private HE is examined as follows. For the clarity of the idea, regulation during the entry, operation, and exit stages are examined separately.

3.1. Entry Regulation

3.1.1. Formation Requirement and Registration

The PrHEIs in Ethiopia are entitled to take any legal form available for nonprofit and for-profit businesses based on their choice. Accordingly, the PrHEIs in Ethiopia took different legal forms including business organizations, cooperatives, civil society organizations (CSOs), and sole business persons(ETA Reg, 2022; HEP, 2019). As noted under the Higher Education Proclamation (HEP), PrHEIs can be established per the law governing CSOs, business organizations, cooperatives, or any other relevant laws based on the form they assume(HEP, 2019). This shows the absence of special requirements for the establishment of PrHEIs that are different from ordinary businesses and charities. Based on the form they assume, the formation requirements may differ. The formation requirement for PrHEIs which operate as Share Company is different from PrHEIs which operate using other forms of business organization, cooperatives, and charities. PrHEIs who take civil society organizations are required to be registered by the Civil Society Organization Agency (CSOA) while those whose business organization forms are registered by the Ministry of Trade and Regional Integration (MTRI). PrHEIs which would like to be organized as a cooperative society should be registered by the Cooperative Commission. At this stage, no high public interest is at stake and hence government regulation at this stage is limited. The only special limitation is the establishment of PrHEIs shall be made project plan which sets (1) socially acceptable aims of the institution, (2) description of the status and academic units of the institution and documentation on program and curricula, (3) provides data on academic staffs, teaching materials, and the funding schemes, (4) provides for a management system which shall guarantee effective delivery educations and research, (5) written verification to ensure that it complies with minimum standard and requirements.

3.1.2. Status of Institutions

PrHEIs may be established initially or upon progression from one status to another with the status of University, University College, College, or Institute and provide education of different levels upon fulfilment of required criteria(HEP, 2019). The status designation should be based on a merit-based evaluation. In designating the status of the institution, among others, the Authority may evaluate facilities such as a library, laboratories, staff, and classrooms made available. The fulfillments or non-fulfillments of these facilities have a huge impact on the relevance and quality of education. Nowadays, it is common to see PrHEI universities without sufficient facilities. The majority of PrHEIs lack the required facilities like classrooms, laboratories, and libraries. Out of Addis Ababa, leave the library which seems a luxury, there are even PrHEIs with no fixed classroom floating every month from place to place. With floating classes, the library and laboratory are unexpected. Almost all of their academic staff are contractual ones from the nearest public universities or other institutions

including lower-level schools. Most courses are offered by those who are not an expert or qualified.

When the institution is granted higher status through progression, criteria such as enrollment capacity, teaching experiences, minimum numbers of classes of graduates, research, publication, number of academic units, curriculum standard, academic staff, and organizational structure should be considered. The same is true when PrHEI is established as a University, University College, or College, the criteria for getting the status far from objectivity and clarity. The law simply states that an institution is established with the status...as such *if its resources provisions, as well as institutional plan and vision, are such that it can, in the judgment of MoE fulfil requirements set forth* for the progressive establishment within three years. This shows, that the criteria for getting the status are less clear and subject manipulation. The phrase “in the judgment MoE” clearly shows how much process is open for corruption. The blame that institutions are getting inequivalent greater institutional status through giving bribes is a common accusation within the industry. Granting upper-level academic status to unfitting PrHEIs affects not only healthy competition among the actors but also the students. To fill gaps, the requirements for acquiring the different statuses of the institutions should be indicated in objective, scientific, and clear terms.

3.2. Regulation of Operation

Ensuring the relevancy and quality of HE and ensuring that they are the centre of excellence in teaching, learning, and community services requires sound regulation of the operation of HE. At the operation stage, the government regulates PrHEIs using different mechanisms.

3.2.1. Setting Objectives, Values, and Duties

The HEP has set objectives and values that guide the overall operation of HE. Producing sufficient competent graduates in the relevant disciplines, and enhancing problem-solving research are the major objectives of PrHEIs (HEP, 2019). The guiding values that PrHEIs promote like pursuit and freedom of expression of truth, academic competitiveness, reputability, autonomy and accountability, economical use of a resource, and efficient service delivery are set (HEP, 2019). These objectives and guiding values are a fundamental roadmap that guides the overall mandate of HEIs. Despite this, it is possible to argue that the purpose of objective and value clauses is limited to interpretative ones. Such clauses may give wider discretion to the regulator to impose corrective measures. The general duties and responsibilities of PHEIs are upholding the objectives and guiding values, developing programs of study and providing HE, preparing and supplying qualified competent graduates, awarding academic qualifications, undertaking relevant study and community services, recruiting and administering employees, managing assets, undertaking income generation activities, issue and implement internal regulations, prepare plans, budget, and organizational structures and implement the same, submit performance reports, cooperation with industries, give honorary degrees, supporting lower-level education, publish statistics data, establish a system for student conduct, and discharge other responsibilities.

3.2.2. Institutional Licensing and Birth Defect thereof

Granting an institutional license to PrHEIs operating in Ethiopia is one mandate of ETA (ETA Reg, 2022). Engaging in the education and training sector requires securing relevant licensing from the ETA. It is prohibited to operate as HEI without having a valid license to engage in the provision of education services. As the study conducted by ETA, in 2012 E.C. revealed a lot of organizations had been operating in the education and training sector without having a license to operate in HE. As the Director-General of ETA has noted in an interview, many private institutions have been operating as HE institutions with a license that is unrelated to their business (Fana, 2022). Some of them operate HE businesses holding import and export licenses, construction licenses, stationary licenses, general

education licenses, TVET licenses, or other business licenses. Education is the most powerful weapon to change the world. If this powerful weapon becomes corrupted the whole change nation and world become corrupted. In Ethiopia, HE was highly corrupted from its inception that is licensing. How importers and exporters or other ordinary business actors can ensure the quality and relevance of education without having the required competence and facilities? Rendering HE without a license is not a simple violation but a birth defect that ruins the whole system of the nation as education is an input provider for whole sectors in a given country. As research conducted by the Agency shows, the reason for a birth defect in PrHEIs is mainly associated with the involvement of the higher officials of the previous regime in the ownership and management of the HE institutions. The finding of ETA also reveals the same.

As the report by ETA shows, hundreds of thousands of students were enrolled in PrHEIs that lack a legitimate license to carry on the business of HE services provisions. Correcting this and putting the system on track is highly challenging. Closing such institutions puts thousands of students and parents at risk. To reduce the cost of closure and revocation what ETA did was just order those illegal institutions to correct their license or take HE licenses(Dawit, 2022b). Though such a measure has the impact of encouraging illegal actors in the industry, it was good from the perspective of wider public interest at stake. Following the corrective measure undertaken by the government, now most PrHEIs have a legitimate license from relevant government organs to engage in the provision of HE.

3.2.3. Accreditation, Reaccreditation, and Revocation

3.2.3.1. Accreditation and Gaps thereof

Accreditation is the most important and initial regulatory stage in which the ETA regulates the quality and relevance of education rendered by PrHEIs. No PrHEI is entitled to provide HE and issue degrees without having valid accreditation from the ETA(HEP, 2019). To ensure the quality and relevance of education and the production of competent manpower, the accreditation of the institution shall be based on merit evaluation. Accreditation is a recognition given to existing education institutions or other institutes per the requirements of the Authority after *necessary evaluation*(ETA Reg, 2022). It also includes accreditation given to the overall educational institutions based on institutional inspection results in terms of quality standards(ETA Reg, 2022). Granting accreditation requires evaluating the capacity of the institution to deliver the program. To this end, the financial capacity of the institution, curriculum developed, number and qualification of staff, facilities required for conducting education or training such as libraries and laboratories, internal regulations of the institution, system of governance and management, and investment and other necessary permits shall be evaluated before accreditation(HEP, 2019). In addition, a memorandum of the establishment will be examined. Following this, the ETA shall upon examining the application issue accreditation within one month time where it ascertains that the institution satisfies the requirements set by law. The Authority can reject the application for accreditation and notify the applicant in writing about the grounds of rejection where it finds that the institution does not meet the requirements.

Accreditation given by ETA is program-specific, education level-specific, modality-specific, campus-specific, term-specific, and number-specific. Program-specific means the institution must secure accreditation for each program it delivers. It is not possible to teach nursing using accreditation for pharmacy. Education-level-specific means institutions must secure accreditation for each to enrol and teach a student in undergraduate, graduate, and postgraduate programs. PrHEIs may not use accreditation for undergraduates to teach graduate or postgraduate programs. Modality-specific means the institution is entitled to enroll and teach in the accredited modality which may be regular or distance. It is illegal to use accreditation of distance modality to enrol and teach in regular modality. Campus-specific means the institution is entitled to enrol and teach the student on an accredited

campus. The PrHEIs are accredited to teach in the Addis Ababa Campus does not mean the institution is accredited elsewhere. Term-specific means the institution is accredited only for a specific period required to graduate one batch. So, it is illegal to use expired accreditation. Number specific means the PrHEIs are not entitled to enrol students about the accredited number. So, if the accredited enrolling capacity is 50 students, the institution may not enrol above capacity. Despite all these restrictions and specificity, it is common for PrHEIs to enrol and teach students without having legitimate accreditation for the program, level of study, modality, campus, periods, and number of students in question.

Accreditation without satisfying standard

Accreditation is issued by the government authority upon evaluating programs and curricula in light of staff, classrooms, and other facilities made available (HEP, 2019). In this context, accreditation is an important stage for the government to check the competence of the institution to render HE. However, because of the failure of the government, private institutions usually acquire accreditation without fulfilling legally determined standards. This problem is attributed to incompetence or institutional incapacity of ETA and corruption deep-rooted in the process for the last decades. In recent years, it is common to hear the issuance of accreditation based on bribes instead of merit. This is mainly associated with a lack of objective and clear-cut competence assessment criteria. Using these gaps, those who do not fulfil the legal requirements usually undergo the illegal process to secure accreditation at the expense of quality education. In this sense, the quality of education in private HE is usually compromised during the accreditation processes.

Operation without Accreditation

Securing accreditation issued by the government authority is a prerequisite to operating a HE business (HEP, 2019). In this sense, PHEIs are entitled to offer only accredited programs at an accredited level of education through an accredited model of delivery in the accredited campus within an accredited enrolling capacity and period. To this end, the HEP has made clear that only accredited PrHEIs shall have the right to issue valid qualifications of HE to its graduates consistent with accredited study programs, specific disciplines in the programs, and enrollment capacity in the accredited campus. Despite this, admitting students to a program in which they are not accredited, opening campus without accreditation, enrolling above capacity, and issuing degrees without accreditation is a common and rampant practice in the private HE industry. As noted by the Director-General of ETA, the study conducted in 2012 E.C shows, that since the 1990s, the official registration data centres of PrHEIs indicate graduation of only 75,000 (seventy-five thousand). Such a small number of graduates from more than 134 HEIs is unacceptable and indicative of the heinous problem of teaching without accreditation. The official report of PrHEIs is an indication of only students who graduated in the accredited program, level of study, modality, and campus. As noted several times by leaders in private institutions and regulatory bodies, PrHEIs have practically two registration data centres, normally classified as Registration-A and Registration-B. Registration-A contains lists of students and graduates in the accredited program, level of study, modality, and campus whereas Registration-B contains lists of students and graduates from the program, modality, level of study, and campus not accredited by the Authority. The report of the institution sent to ETA shows only students in Registration Data-A, not B. Even during auditing and supervision, they don't avail registration B to the supervisory body. However, in the meantime, following the strong warning given by ETA to take severe measures and close the institution, the PrHEIs reported 1.1 million graduates (the actual size may be greater than this) in the 2012 E.C (Dawit, 2022b). More than 1000 percent of unreported graduates are probably graduates in the unaccredited program.

Nowadays, the government has been doing reforms to improve the sector in this regard. Despite the reform initiatives going on, the degree of teaching and training students without accreditation is still at its peak. A case study of PrHEIs located in the Benishangul Gumuz region also reveals the existence of teaching without accreditation. To discourage free riders in the sector, the reform should have to be supported by a harsh measure that can deter illegal actors. Besides, the awareness creation is necessary to enable the students to check whether their program of study is accredited.

3.2.3.2. Re-Accreditation

The accreditation shall be valid for a fixed duration. An accreditation issued to a PrHEI shall be renewed upon the expiry of the three years of its validity and, subsequently, every five years before the beginning of a new academic year(HEP, 2019). The application for re-accreditation shall include a report on the state of fact previously submitted to ETA; a self-assessment document, lists of permanent staff; lists of students enrolled each year, a list of facilities, and audited financial reports for the last three years, and other information as required(HEP, 2019). Following application, the Assessment Committee of ETA evaluates the self-assessment reports and ascertains their veracity, scrutinizes the available infrastructure, examines curricula, quality of teaching and learning, student files, student support services, student involvement, and student's evaluation of the quality of education, scrutinize lists and qualifications of support staff, and scale and relevance of research activities to decide on the viability of the institution be guaranteed with reaccreditation(HEP, 2019). Based on the result of an assessment, the ETA may issue or reject the renewal of the accreditation upon ascertaining fulfilment or non-fulfilment of requirements set by law(HEP, 2019). Where the ETA rejects an application for renewal of accreditation, it shall notify the applicant in writing indicating the reason and recommending the corrective measures.

No PrHEIs enrol students without securing renewal of accreditation upon expiration of the initial term of accreditation. Expressing differently, upon expiry of terms of accreditation, no PrHEIs enrol and teach students without securing renewal of accreditation. To this end, the ETA is duty-bound to supervise and monitor the compliance of PrHEIs with the terms of the law and to take corrective measures against trespassing institutions. The ETA posts the state of accreditation of PrHEIs on its website expressing whether it is active, expired, or on the state of warning. So, everyone can check the status of the accreditation of PrHEIs online. However, how many of the students and parents are well informed to check for this information is something that needs due consideration.

Despite the above legal prohibition, enrolling, teaching, and graduating students with an expired license or without securing renewal of accreditation are common within PrHEIs. A case study of PrHEIs in Assosa through cross-checking with the updated data available on the website of ETA also reveals the same. Except for one PrHEI, all other institutions have at least one expired program. As data collected from direct observation of PrHEIs and the website of ETA shows, out of 38 undergraduate programs offered with different modalities, the accreditation of 19 programs of study (50%) is expired. This figure is representative of PrHEIs operating out of Addis Ababa. The existing practices reveal that enrolling students and operating HE businesses without renewal of accreditation is common in the industry. Solving this problem is possible through active and timely monitoring and supervision. However, because of a lack of active monitoring from the ETA, PrHEIs (especially those which are located in the countryside) are enrolling, teaching, graduating, and issuing degrees in the program with expired accreditation.

3.2.3.3. Revocation

Revocation is one important instrument to control PrHEIs. The grounds for revocation of accreditation are regulated by laws. As per Art.79 of HEP, the grounds for revocation are accreditation based on false information, failure to rectify the defect within the time fixed in

the warning, dissolution, and cessation of operations. When accreditation is revoked, the institution whose accreditation is revoked shall have the duty to take appropriate measures so that the students and the trainees continue their studies in other appropriate institutions. In the recent incident of revocation of accreditation, ETA in consultation with the institution and other PrHEIs have adjusted for the students to complete their study in another accredited institution. This is a good job to protect students and parents against the unnecessary cost of time and money. In such times of emergency, it is possible to use a performance bond deposited by the institution to cover the cost of students. Upon revocation, the institution is duty-bound to return the accreditation within two months.

3.2.3.4. Forged Degrees and Its Regulation

A fake degree is one of the problems affecting the quality and relevance of HE in Ethiopia. This is mainly a problem in private universities established for profit-making. Usually, fake degrees are exposed during the authentication of educational credentials or verification of authenticity and legality of educational credentials offered by any licensed or accredited local education institution by the ETA (ETA Reg, 2022). Nowadays, the amount of forged degrees is at an alarming stage in Ethiopia. The forged degree has multitudes of negative impacts including reducing the quality and relevance of HE, discouraging legitimate education, making competent graduates suffer from a lack of jobs, and making employers suffer from competent labour. Despite the huge number of unemployed in Ethiopia, it is common to hear lack of qualified labour as one challenge usually mentioned by employers. This reveals the existence of something wrong.

Latest reports show that the number of people with fake university degrees, diplomas, and certificates has been growing in Ethiopia. Instead of studying for three to six years, students have been also looking for a forged degree from the market or institutions which are degree mills. There is no certain and comprehensive data showing the level of fake degrees in Ethiopia. Different reports with different scopes show different data. For instance, recently, the transport authority of Addis Ababa City has fired several employees with fake credentials. The study conducted in the Southern region spotted a total of 3,200 civil servants with fake university credentials. The same problems have been spotted in other regions including Oromia, Amhara, Gambella, Benishangul Gumuz, Sidama, and others. Recently, HERQA has spotted more than 200,000 fake degree certificates, the majority of which are offered to government officials. Even this number does not indicate the severity of the problem at this time. As the 2022 finding of ETA has indicated out of more than 1.1 million students who graduated from PrHEIs only 75,000 are registered on the official registration databases of the institutions. This shows there is something wrong. Most probably, those unregistered graduates who exceed 1 million are those who graduated in an unaccredited program, modality, level of study, or without qualifying for admission. In this context, the total number of fake degrees is 1000 greater than the accredited and legal degrees issued by PrHEIs. In this situation, it would not be an exaggeration if the PrHEIs were named *degree mills*. The number of forged degrees is multiplied if the degree and diploma sold like a commodity in the market are added.

There is a claim that priority to political affiliation and loyalty by the regime over merit and professionalism has contributed to the growing number of civil servants with forged credentials. Even the top officials of the previous and this regime are suspected of holding fake credentials. It is next to impossible to expect the higher government officials with fake credentials to take firm action and correct the problem.

There are different kinds of fake degrees. This fake degree is different from different perspectives including the role of the students and the institutions in its issuance. Some of the scenarios of fake degrees are the following. The *first* scenario is *a fake degree issued by unaccredited PrHEIs*. As the report of ETA revealed, during the EPRDF regime, most

institutions that declare themselves as a university, University College, or other designation of HE institutions lack accreditation or relevant license from the relevant government to operate HE business. Some of them use export or import licenses, general trading licenses, stationary licenses, general education licenses, or even other business licenses. Whether the student is qualified or not to be admitted degree issued by such an institution is fake. In this scenario, the role of a student is highly limited whereas the role of the institution is very high. The measure taken under the laws and by the regulator needs to take into consideration the degree of participation of the stakeholders. In recent years, following the discovery of such an institution, the government simply required the institution to have accreditation or license to undertake HE business upon fulfilling the requirements. Such a measure may not have an impact on deterring feature similar acts, but it seems beneficial from the perspective interests of enrolled students and parents. Besides, the value of a degree issued without having a valid license is under question.

The *second* scenario of a fake degree is one issued by an accredited HEI but for a student who is not qualified to be admitted to the program. This is the case when a student is admitted without fulfilling entrance requirements to be enrolled in private HE. In this case, both HEI and students are active participants as both of them know that the student is unqualified to get enrolled and graduate. The student is registered in PrHEIs without fulfilling the requirement and the institution that registered such unqualified students knows the illegality of the acts. The *third* scenario is where there is a fake degree issued by an accredited HEI for the student who is unqualified but registered and graduates as if s/he is qualified using forged documents of admission. Here the fakeness of the degree arises from the fakeness of the admission of the documents. In this case, the students have an activity while the institution has a passive role. The mistake of the institution is only failure to cross-check and verify the admission documents with official documents issued by the relevant authority or accredited institution. In this sense, imposing severe measures against such students is legitimate.

The *fourth* scenario is where students buy from the market as a commodity through a broker even without attending any class or program. In this context, the institutional logo that is illegally used may exist or not. The student has an active role in these scenarios, but the institution does not, despite the staff of the institution may be manipulating the logo of the institution for personal benefit. In this sense, imposing severe measures against such students is legitimate. The *fifth* scenario is where is issued for the unaccredited program, level of study, campus, and modality. The PrHEIs are licensed or accredited to render HE does not mean that the institution is accredited to enrol and graduate students in any program, level of study, modality, and campus. Rather, the institution needs to secure accreditation for each program, level of study, modality, and campus. The degree issued for a program unaccredited is forged though the institution is institutionally accredited to render HE. The degree issued for the unaccredited level of study (for example master's) is illegal and invalid despite the institutional accreditation. The same is true concerning a degree by unaccredited campus and modality.

The above different scenarios of fake degrees have implications for the regulation of the sector. The government needs to have scenario-specific regulations and measures against fake degrees. Otherwise, the measures and regulations will be illegitimate and devastating. To tackle the problem of fake, the ETA has recently introduced a modern database to allow institutions to verify the authenticity of degrees, diplomas, and certificates before recruiting employees. However, tackling this problem needs sound, multisectoral, and firm action beyond developing a database.

3.2.3.5. Student Admission and Assessment

Admission of students is one of the most problematic areas in the regulations of PrHEIs. As per the HEP, admissions to undergraduate programs of any institution shall be based on completion of the secondary education program and obtaining the necessary pass marks in the university entrance examination (HEP, 2019). Besides, level 4 TVET graduates with two years of work experience are entitled to be admitted to the undergraduate program upon passing the entrance exam. The PrHEIs have strict responsibilities to admit only students qualified for admission (HEP, 2019). The admission clause is a dead clause in the HE proclamation. The problem with respect to the violation of admission requirements is a complicated problem involving different actors. There is a problem posed by the admitting institution that knowingly admits unqualified students. There is also a problem posed by admitting students in different scenarios. Some students prepare forged documents to fulfil the admission mark fraudulently and get registered.

In a recent interview, a top official in one PrHEI indicated the existence and degree of forged documents prepared by students for admission purposes. The PrHEIs have a lion's share in violating the admission requirements clause. PrHEIs usually hold two or more student registration data centres to evade external auditors during inspections and monitoring. The legitimate registration data centre contains only lists of students who are admitted by fulfilling admission requirements while the illegitimate one contains lists of students who are illegally admitted without fulfilling entrance requirements set by the law and MoE. In admitting unqualified students, a simulative and illegal arrangement between PrHEIs and students is common. Under this simulative arrangement, the students enter into a contractual commitment with PrHEIs to fulfil the admission requirement during the study. This illegal arrangement between the students and HEIs has been becoming common practice even in public universities, especially in developing regions. During an inspection by government agencies, the PrHEIs avail only the lists of legitimately admitted students and hide the data of students admitted without fulfilling admission criteria.

3.2.3.6. Grade Inflation

Following admission, students should have to be carefully assessed based on merit and the teaching and learning process should have to be student-centered that can promote active learning. In this sense, the grading system needs to be reflective of the competence of the students. Despite this, the grading or marking system in PrHEIs is highly inflated. To attract students, private institutions have been giving inflated grades which do not reflect the competence achieved by the students. The employer usually does screening and employs students based on the grade achieved as there is a better alternative way to measure the competence of graduates. Immediately, the employer understands that the employee lacks the required knowledge, skill, and attitude and starts to blame HE institutions. The inflated grading system in PrHEIs affects not only the industry but also excludes well-graded graduates from competition in the labour market. The grading inflation in the PrHEIs also has excluded the public universities from the competition. These days, most self-sponsored students are not interested in attending public universities because of strict grading. In fact, following the fixed grading system put in place by the government, grade inflation has been becoming a problem also in public universities. However, relatively speaking grade inflation is higher in private universities. To handle these challenges and ensure the production of competent graduates who support the development endeavours of the country, the grading system needs not only strong regulation and supervision but if necessary changing the grading system.

3.2.3.7. Supervision and Monitoring

Monitoring and supervising PrHEIs is one primary mandate of the ETA (ETA Reg, 2022). Supervision and monitoring are very essential regulatory actions through which the government regulates the quality and relevancy of education and training rendered by

PrHEIs. In this sense, supervision plays a fundamental role in shaping private HE. It helps to prevent the problem from occurring and when it happens to correct it in a timely. To this end, the supervision should be periodical by skilled professionals. Usually, the ETA is short off in this regard. Without prejudices to public universities, nowadays, there are over 360 PrHEIs in Ethiopia. Supervising these institutions requires hundreds of professionals. However, because of internal structural problems, ETA lacks enough professionals and necessary facilities like vehicles to periodically and sufficiently supervise and monitor PrHEIs. It is impossible to effectively and efficiently supervise and monitor hundreds of sophisticated and multitudes of PrHEIs without sufficient and qualified manpower. To put a strong supervision scheme in place, the ETA needs internal fundamental structural adjustment of the number and qualification of staff of the supervision directorate.

3.2.3.8. External Quality Audit

The HEP dictates that PrHEIs put in place an internal quality assurance system. Because of the ineffectiveness and constraint in the internal audit, the HEP has empowered ETA to conduct incidental quality auditing on PrHEIs. On its face, it is good to monitor the quality of teaching, research, and community engagement of PrHEIs to protect the wider public interest from being compromised by the profit motive of the institutions. In Ethiopia, the effectiveness and impact of external quality audits on improving quality and relevance assurance are unresearched and under question (Melaku Dires, 2008).¹ In a study conducted in Australia, New Zealand, Fiji Islands, Hong Kong, Malaysia, United Kingdom, India, South Africa, Italy, Finland, Norway, Chile, and the United States of America the external quality audit was appreciated for balancing the interests of stakeholders and supporting and driving improvements, changes, and accountability in private HE providers, improving internal quality assurance and enhancement and ensuring quality assurance and improvement and accountability thereof (John M. Jennings, 2013; Shah, Mahsood, 2013; Shah Mahsood & Sue-Ann, 2013; Sereana, 2013). The value placed on the external quality audit in supporting the improvement of teaching, learning, or research differs across the countries (Shah, Mahsood, 2013). Despite this, the importance of external quality assurance audits should not be overlooked. The same is true in Ethiopia. As defined by HERQA, an institutional quality audit is an in-depth analysis and assessment of the quality and relevance of programs and the teaching-learning environment, and the appropriateness and effectiveness of an HEI's approach to quality care, its system of accountability, and its internal review mechanisms (by external experts).

The relevancy of external quality audits in quality assurance and improvement is expressly recognized by the proclamation. The increasing concerns of employers about the quality of graduates and the presence of large numbers of unemployed graduates make the issue of quality a serious concern for the government and other actors in the industry. The effectiveness and degree of enforcement of external quality audits are not well-researched.

3.2.3.9. Measures against Violation

The law sets various remedies including administrative, civil, and/or criminal remedies as it deems necessary to ensure enforcement. The same is true under laws regulating PrHEIs. In case there violation of proclamation requirements, the authority (ETA) and MoE have the power to take corrective measures on a case-by-case basis. Accordingly, the measures taken may include an order for an injunction of illegal acts, written warning, revocation of license and accreditation, and instituting civil and criminal action against the PHEIs or their management bodies. In 2022 alone, the ETA has taken actions different corrective actions against 140 PrHEIs. The actions taken include the revocation of business license, revocation of accreditation, closure of the campus, closure of the program, and

¹Melaku Dires Weldemariam, *Higher Education Quality Audit in Ethiopia: Analyzing the Methods and Procedures*, available at, <https://core.ac.uk/download/pdf/30884751.pdf>, last accessed on June 23, 2022)

instituting legal actions against the institution and management bodies thereof. Such case and scrutiny-based government action are highly appreciated to ensure the quality and relevance of HE. However, there was one incident in which the government took harsh summary measures which had a crackdown on the private universities. In 2010, because of the deterioration of the quality of education, the MoE issued a directive that banned off-campus education and the delivery of degree programs in law and education by PrHEIs. Such a wholesale measure not only affects the PrHEIs but also parents and students as it narrows down their options and the credibility of their degrees. In case there is a violation of quality standards by the HE institutions, the government has the sovereign power to take corrective measures including revocation of accreditation against the perpetrator on a case-by-case basis following a fact-finding and appeals process. The late wholesale measures taken by the government faced opposition from the students and PrHEIs as illegitimate and in violation of the HEP.

4. CONCLUSION

In Ethiopia, since its birth in the 1990s, private HE taking different legal forms designed for nonprofit and for-profit have been increasing in number and enrolling capacity. Currently, they outnumber public universities and play a positive role in the country's development by ensuring access to HE, producing manpower, and creating employment opportunities. Despite this, in recent years, the quality and relevance of HE delivered by PrHEIs have been questioned. PrHEIs are usually profit-oriented. Because of this, they usually sacrifice quality and relevance for the sake of profit. To respond to this, the government regulation must be effective enough. In this context, in this article, the effectiveness of government regulation of HE in Ethiopia was examined. As the findings of the study have revealed, despite some progress in reforming the sector, the government regulation of PrHEIs in Ethiopia is ineffective in neutralizing the profit motive of the actors and ensuring relevance and quality. The problem of private HE lies mainly in the poor regulatory enforcement associated with the weak institutional capacity of ETA compared to a spaghetti bowl of PrHEIs in Ethiopia. Regulating PrHEIs requires a lot of competent professionals to effectively undertake accreditation, re-accreditation, supervision, and auditing. However, ETA was unable to attract qualified employees. Besides, the autonomy of ETA is under question. In addition to the enforcement problem, the market is short of adequacy to regulate and correct itself to ensure the quality and relevance of private higher education. To correct the market failure in the industry and balance the profit motive of actors with the public good nature of education strong and effective regulation is crucial. Accordingly, the researcher recommends strict enforcement of law and policies through coordinated multisectoral actions; strengthening of ETA with finance, manpower, and necessary autonomy; implementation of the Ethiopian Standardization Framework, and putting in place a comprehensive long-term roadmap for the private HE industry.

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