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PUBLIC DISORDER, PRIVATE BOONS? INTER-SECTORAL DYNAMICS ILLUSTRATED BY THE KENYAN CASE

ABSTRACT

Within and beyond Africa, it is the public sector much more than the private sector that is the scene of strikes and other forms of disorder, conflict and difficulty. Yet the private sector can be much affected by the public problems. Effects may be simultaneously positive for the private sector and deleterious for the public sector. Although a few higher education works have considered the private sector impacts of general public sector disorder, our Kenyan case study goes much further in uncovering and detailing inter-sectoral dynamics. Compared to the (sparse) literature on higher education inter-sectoral dynamics, it extends consideration from Latin America to Africa, from elite to other private higher education, and from challenges facing public universities to ensuing challenges facing private universities. It also extends consideration of strikes to the faculty side. Faculty strikes have been less common than student strikes in higher education, but Africa stands out for experiencing both strike forms. We treat faculty strikes as a prominent case of the wider phenomenon of disorder, conflict, or difficulty.

The ramifications of public disorder do not stop at one-shot impacts on private higher education. On the contrary, the Kenyan case reveals dynamic and multiple, sometimes sequential, public-private interactions. The public sector does not haplessly suffer and the private sector does not inevitably gain. Both face challenges as the other sector shifts strategies and as macro political and economic contexts change. The case of Kenyan faculty strikes tells us much about unfolding realities in African higher education and much about private-public dynamics more widely. Whether in regard to particular private gains or generally in regard to multiple public-private shifts, the case provides insights into significant conceptual and empirical questions about inter-sectoral impacts—whether in higher education or beyond.

I. EXPLORING PUBLIC DISORDER AND PRIVATE-PUBLIC DYNAMICS

Public University Disruptions: Frequency and Types

Disruption of learning is a common feature of higher education in developing countries. Disruptions occur mostly in public institutions. We will develop the argument that disruptions may have particular and important consequences for private institutions and for private-public inter-sectoral dynamics.

Stemming from multiple causes, these public higher education disruptions take either of two predominant forms. The first, more common, and certainly the most analyzed in the scholarly literature, is student protest. Not all protests manifest themselves in strikes but a significant number do. [1] Students protest over poor learning conditions, attempts to impose additional or more stringent examinations or other reviews, stoppage or decreases in government subsidies, displeasure with particular institutional administrations, and (though less often than before in Latin America) differences with the national political leadership. [2]

In Africa strikes have taken new shape, with 'democratization' of national political systems. Salient is the opening up of political space as single party systems that had dominated since the 1960s crumbled in the 1990s. With such democratization, universities are no longer the dominant, largely sole oppositional forces they had been, as vibrant political parties and civil associations have emerged. [3] This has meant some diminishing of higher education activism. On the other hand, new-found freedom has facilitated protest. The protests have increased as both professors and students can act without as much repression and fear of state brutality as before. What Africa often had in the past were muted expressions because of preoccupation with potential reprisals. Common also were departures of highly qualified professors deemed 'dissidents' by the political systems. Sometimes, the ease of action against professors left students taking a lead in criticizing the state, often to protest the state's arrest or detention of dissenting faculty.

Faculty strikes (or boycotts or work actions) come in various forms including the refusal to teach and conduct tutorials, guide graduate students, supervise internships, participate in senate meetings, and so forth. Faculty strikes appear to be particularly noteworthy in Africa. For one thing, they are clearly a rarity in other parts of the world. Also, the faculty strikes in Africa appear notable for the seriousness of their impacts. In Latin America, the overwhelming focus has historically been on student strikes, despite a strong ongoing tradition of strikes by public school teachers at the primary and secondary levels; however, faculty became more politically active, including through unions, by the 1980s. Even in Africa, faculty strikes are not as common as student strikes or protests—but they are prominent and warrant attention. [4]

It does not seem difficult to explain the lack of private higher education faculty strikes even in a region prominent for public faculty strikes. This is especially true wherever our subject is non-elite private higher education. The non-elite sub-sector tends to employ part-time faculty, rarely prestigious. Such faculty have little leverage. They are hired on temporary contracts and often easily replaced. At the same time, the rationales for striking are rather low compared to those for full-time public counterparts. Not as much is at stake, since income and security come mostly from positions outside the university. These points about part-time status apply in most Latin American countries to the public sector as well as to the private sector, but there, as well as in Africa and other regions, the part-time phenomenon is more prevalent in private institutions. Furthermore, the hierarchical governance of private institutions, especially non-elite ones, means power in administrative or ownership hands, with little room for faculty power or a strong faculty academic ethos. [5] In the growing for-profit sector globally, the subordination of faculty (to administration and to student choice) is especially notable (Kinser 2006).

Theoretical Theme: Inter-sectoral Implications

Key to our particular interest here, in conceptual, empirical, and policy terms, are public-private issues. As noted, both faculty strikes and other disruptions are much more common, regardless of region, in public than private institutions. Naturally, the most important impacts are on public higher education itself. But impacts on private higher education can be significant as well. In turn, a changing private sector can have rebound effects on the public sector. Inter-sectoral dynamics can be reshaped. Yet, these effects have almost never been analyzed and rarely even noted, partly because they are generally unanticipated. Instead, the public-private interface—in both higher education and beyond—is often analyzed with a focus on how distinctive the two sectors are or on inter-sectoral collaboration (Salamon and Anheier 1998). But the disruptions we will be exploring in Kenya illustrate aspects of dynamic inter-sectoral competition and change. This is not a story merely of public troubles and private gains even though these are strong elements. In both scholarly and policy terms, the ways in which public misfortune may benefit private growth or robustness is a vital and widely applicable inter-sectoral theme. [6]

Moreover, even aside from the broad inter-sectoral dynamics that can be explored in and applied to many policy fields, we note inside higher education that strikes are but one illustrative manifestation of a more generalized problem of public crisis and perceived deterioration. As noted above, these are acute in developing countries' higher education (Task Force 2000), particularly in Africa and Latin America (Teferra and Altbach 2003; Castro and Levy 2000).

The higher education phenomenon of private growth arising from 'public failure', at least perceived failure, has important precedent. Literature on the subject, principally Levy (1986) on

Latin America, demonstrates that some of the most distinctive growth in private higher education occurs at a time of notable disorder in public universities. Such a public-private dynamic does not depend on there being any direct formal ties between sectors or their institutions. But in Africa, and an increasing part of the world, there is now a complex web of private-public relationships, even if mostly unofficial (as in a large number of public staff serving as part timers, and even sometimes as the core staff in private universities), and this web does open fresh opportunities for the events in one sector to affect the other sector. In such circumstances, as in Kenya, the impact of disorder may resonate well beyond the public university system, directly and indirectly into the private higher education sector.

Our most specific substantive emphasis is on issues of faculty strikes. We shed light on that in part by making comparisons to the much more studied student strikes. Additionally, while the paper is about Kenya, it includes broader African considerations and it utilizes comparative perspectives from Latin America as well. The choice of Latin America reflects its longer history of public-private dynamics, including the impact of student strikes on private boons, than in any other part of the globe outside the U.S.

The Kenyan Case in African Context

We offer a brief overview of the African and Kenyan higher education as a backdrop to our exploration of the intricacies of private-public relations. Though African higher education has had a chequered history, the roots are notably private. In the Alexandria Museum, the continent had one of the oldest higher education institutions. But its influence under the Ptolemies in the 3rd Century B.C. waned significantly, leading to a lack of a credible institution of higher learning, perhaps until the establishment of the Fourah Bay College in 1826 by the missionaries (Ajayi, Gomer and Johnson, 1996). In the eastern and southern parts of the continent, the pattern was similar. Much later than historical missionary initiatives—established for evangelism but sometimes converting later into universities, maintaining a religious flavor—public institutions were eventually established by colonial governments. Examples include the University of East Africa, the University College at Fourah Bay, and the University of Dakar.

Significant differences between the different colonial masters affected and shaped the development of the continent's higher education. Ajayi, Gomer and Johnson (1996: 33-41) highlight the British friendliness to private action, mainly by the missionaries, to establish institutions. The French, on the other hand, with their strong anti-clericalism and orientation to political centralism, restricted such missionary work, instead encouraging colonies to send students to pursue higher education in France. In contrast, the Portuguese found less reason to invest in African education while the Italians, as late comers to colonialism did not sustain any clear policy. No colonial power undertook to create university infrastructure comparable to what

Spain had done in Latin America. But Africa's pace of establishing higher education institutions increased rapidly after independence, with the push to train a cadre of highly skilled technocrats to help manage the new nations. Nigeria witnessed the most rapid expansion of university education (Sifuna, 2000). By the turn of the current century, every country in the continent would boast of at least one university. In general, political conditions permitting, Anglophone Africa has displayed British features such as a degree of institutional autonomy and system decentralization, whereas francophone Africa shows more centralized patterns, with less overall development.

In the East African region, the heritage is British. There are 19 public universities (Kenya, 7, Tanzania, 7, and Uganda, 5) and 50 private universities (Kenya, 18, Uganda, 13 and Tanzania, 19) (Musisi and Mayega, 2007; Ishengoma, 2007; Otieno, 2007, 2004). Private universities even in Anglophone Africa are relatively new, which helps explain why they have not thus far been the subject of much scholarship compared to the focus on public institutions. Even major works on higher education in Africa such as Ajayi, Goma and Johnson (1996) are still largely devoted to public institutions. The private ones have mostly been referred to in such terms as 'small American and religious universities'. For Kenya, as for virtually all Africa, the dominance of public institutions in higher education is historical. Whereas available literature points to a now ample history of private higher education in many Latin American and Asian countries, and outright domination of enrolment in others, Africa is a late entrant in private provision. [7] Only in the far north has Africa had a relatively longer experience with private higher education (Levy, 2003).

Zeroing in on the Kenyan case, the 18 private universities are classified legally in three categories, depending on the level of recognition. [8] As incipient institutions, Kenya's private universities have had to contend with a long history of public domination, as is the case for most of Africa and, decades earlier, for Latin America. Additionally, again as in Latin America and beyond, most trained academics are in the public universities, as most private institutions make do with high proportions of part time staff. Currently, even at Kenya's most prestigious private university, the USIU (US International University), over 70 percent of staff are part-time. The country's other major private universities have more modest but still significant part-time proportions: 43 percent at the Catholic University of Eastern Africa (CUEA), 38 percent at the University of Eastern Africa at Baraton (UEAB), and 23 percent at the Daystar University. [9] The part-time percentage is much higher at most other private institutions, particularly the non-university ones. One notable case is the Australian Studies Institute (AUSI), where all staff are part time. The bulk of the private sector's part time professorate works full time at the public universities, where they constitute over 95 percent of permanent staff. There are even indications that some departments in public universities have more staff than they need (Aduol, 1999), which could play into private university poaching. Public university professors have rather easily been able to take part time appointments in private universities, not stymied by the relatively lax regulations about taking outside appointments while in the service of the public university.

Several private institutions have been striving to get good full time faculty both in response to regulatory pressures and the need to project images of academic seriousness. Thus, these institutions seek to deviate from the African and global (non-U.S.) tendency of low status and academically inferior private higher education institutions. Or, put more favorably, contemporary international private higher education is largely split between (a) opportunistic institutions with low quality and (b) more serious institutions. Kenya may reflect this split but with a more substantial seriousness than in many other countries. Despite the obvious private handicap of recency, several developments including the sheer growth in the number of private institutions offer potential challenges to Kenyan public dominance. Disorder at the public universities heightens the challenges and competition. Arguing that the Kenyan strikes are symptomatic of the more general public disorder, we show how it has serious ramifications for public-private relations. Drawing from the Latin American case, we demonstrate that such public disorder can contribute to private growth and strength, even if indirectly.

As we proceed to sketch the overall profile of Kenya's private higher education, we draw distinctions that ultimately have relevance to the ability of some private types more than others to reap gains from public difficulties. These distinctions—derived from the private higher literature— include (a) size; (b) secularity; (c) university-non-university status; and (d) demand-absorbing versus academically more formidable categories.

(a) Size. A key feature, in both Kenya and the rest of the continent (and beyond) is the relatively small size of private institutions compared to public ones. Even when there are more private than public institutions, as in Kenya, the bulk of African enrolment remains in the public universities, mostly older institutions than the private ones. So age is a factor in comparatively large public size but so are various other factors, including state support and the wider array of programs offered in the public institutions. Within the private sector itself, at least in Kenya, much of the enrollment concentrates in a few, centrally located and largely prestigious ("semi-elite") institutions. Peeking ahead, it is mainly a few private universities that have been poised to take advantage of public difficulty. Public-private competition occurs largely between these private institutions and the public ones.

(b) Secularity. Public-private competition also depends on a private distinction between secular and religious. All public institutions are secular whereas private institutions are mostly religious with a few secular ones. In Kenya, the largest, most popular private institution is secular, and provides much of the competition to the public universities. [10] Partly as a result, some religious universities are now secularizing to be competitive. In much of Africa including Kenya, it is the religious institutions that academically dominate the private higher education scene.

(c) Non-university. A further relevant contrast is between university and non-university institutions. Evidently, Kenya has more non-university institutions, about 130 compared to the 17 private universities (KIPPRA, 2004). The non-university institutions have not been in direct competition with either the public universities or the private universities until recently, when public universities, seeking increased leverage over private universities, initiated partnerships with non-university institutions. Such partnership allows the latter to grant degrees on behalf of their public university associates, in turn raising the status of these non-university institutions and eats into the market of the private universities.

(d) Demand-absorbing, Academic. A final distinction prominent in leading literature on private higher education is between simple, demand-absorbing institutions and more serious academic ones. In Kenya, it is hard to locate the purely demand absorbing institutions, largely due to a stringent regulatory framework. The prevalence of serious private institutions means that the public sector faces major risks when it suffers public disorders such as created by strikes

Thus, Kenya's private institutions differ significantly in type. We are prepared for the fact that some are best set up (as academically serious universities, secular, and not tiny or demand-absorbing) to reap gains from public difficulty.

The growth in Kenyan private institutions has been rapid, considering that the first private university received a charter only in 1991. Contrasted with six public universities in over four decades since independence, the private universities have staked a quick claim on the Kenyan university education landscape. Indeed, rapid growth is evident in much of Africa (Mabizela, Levy and Otieno, forthcoming). The trend has been especially salient since the introduction of liberalization policies of the late 1980s and early 1990s.

To finish sketching in the Kenyan public-private sectors, Table 1 presents data relating to enrolment, categorization and year of establishment (also see the more detailed Appendix 1).

Table 1: Student Enrolment in Kenyan Universities, 2006/2007

University category and Module	**Enrolment by gender**		
Public Universities			
	Male	**Female**	**Total**
Module 1	33,581	17,981	51,562
Module 11	22,936	16,839	39,775
Sub-total	**56,517**	**34,820**	**91,337**
Private Universities			
Private Accredited	8,850	6,967	15,817
Private Unaccredited	2,853	2,222	5,075
Sub-total	**11,703**	**9,189**	**20,892**
Total	**68,220**	**44,009**	**112,229**

Source: Ministry of Education

At, the private share of enrolment is a modest to low one by common standards for much of developing world, but on the high side for Africa, and it is remarkable given the lack of a full-fledged private *university* before 1991. However, Kenya did, like some other African countries, have notable private precursors. One type was the non-degree awarding commercial college offering programs mainly in business fields. A few institutions such as the USIU offered degrees in collaboration with their foreign partner institutions. The second type of private precursor was the religious institution offering theological programs for their respective denominations. Practically, these are the seeds from which private higher education in Kenya would sprout, as is the case for other private sectors in Africa and beyond. The recent data presented in Table 1 above actually shows that the private share has subsequently increased in 2006/07 AY to 18.6% from the previous lows of 13.2 percent in 2004 (see Appendix 1 for more details). What should be clear is that even when private share declines in relative terms, the institutions still record an absolute increase in the number of students. The phenomenal public growth (that diminishes private share) incidentally stems from the increased enrolment in the private entry (Module II) (non-state subsidized/full fee paying entry schemes). The Module II programs have been in place since 1998, but have since been intensified, including with new programs and modes of delivery. Public universities have had to raise more funds internally to be able to pay for their new programs, especially as government has restricted funding. Universities have been able to close this gap by charging much higher tuition fees for the Module II programs than for the regular, subsidized programs. In most cases, the Module II tuition fees are nearly the same or higher than the tuition fees in private universities. The high demand for university education, evident in the increasing enrolment in private universities, in part fueled these programs, as public universities realized that unmet demand included parents and students willing to pay. The public-private dynamics in this case center on the competition for this pool of fee-paying students.

The balance of this paper is structured in three parts. First, we compare and contrast Kenya's 2004 and 1994 strikes, dwelling on the similarities and causes of the strikes as well as the political environment prevailing at each time period, and contrasting the private higher education sector at those two periods. Second, we emphasize the challenges that private higher education sector has posed in the shadow of public disorder epitomized in strikes. Third, we discuss the reforms in the public sector as occasioned by such disorder and the private gains, and note that whereas disorder in public universities presents the private sector with an opportunity to challenge the public sector, these public reforms now provide a reciprocal challenge to private universities. In a nutshell, the strikes set off a web of public-private interactions and altered relations that promise to enhance and reshape the competition between the two sectors.

II. 2004 VS. 1994: THE CONTRASTING SCENARIOS

What we call the 2004 strike started in late 2003 and ran through to February 2004, involving all the 3,200 teaching staff in the six public universities (Nairobi, Moi, Kenyatta, Egerton, Jomo Kenyatta and Maseno). The strike illustrated a general crisis within the public system. It occurred ten years after an earlier strike, which was never successfully resolved. [11] Key contrasts can be drawn between the 1994 and 2004 strikes with regard to the circumstances of public and private universities at the two time periods. Broadly, these can be categorized into three: a). From Repressive Political Control to Greater Autonomy; b). From a Marginal to a Major Private Sector; and, c). From Political to Economic Strike Motivations.

From Repressive Political Control to Greater Autonomy

There are clear differences in the political circumstances at the time of the two strikes. First, the 1994 strike took place under a repressive and an intolerant regime not entertaining dissent. The government swiftly dismissed the entire (public university) union leadership. Political purges subsequent to the strike forced public university faculty to exit mostly to foreign countries. To a large extent, the growth of private universities in the 1990s has reduced the external flow of faculty, who now find ready acceptance in the private institutions. [12]

A second, and related, major contrast between 2004 and 1994 concerns institutional governance. In 1994 there was direct political interference in the running of the institutions, with Kenya's president as the chancellor of all public universities. In 2004, the president who assumed office at the end of 2002 was no longer the automatic chancellor of all public universities and would not therefore exercise the direct control characteristic in 1994. Though the old statutes remain, the president has instead appointed individual chancellors for all six public universities. This helps explain the relative degree of tolerance to striking faculty in 2004 contrasted with 1994. The government's greater tolerance was demonstrated in the blanket amnesty it gave to students who had been expelled (at different times during the reign of the previous government) from the public universities to resume their studies unconditionally. The government also invited the teaching staff who had been forced out of the university to come back. The government's intention was to reinstate all those who had been forced out both as a result of the 1994 strike and even earlier incidences like the 1982 abortive coup. Many did come back, but a significant number who are comfortable in foreign universities opted to remain where they are. Even those that remained and had been branded 'radical' by the previous government have been allowed to give public lectures on such sensitive topics as democratizing university governance. Furthermore, one of the fiercest critics of the previous administration was appointed chancellor of a public university. Together, these factors illustrate why there was optimism ahead of the 2003-2004 strike that the new government would be receptive to faculty demands.

From a Marginal to a Major Private Sector

An additional 1994-2004 contrast crucial for our theme concerns institutional characteristics. First and foremost, there is new competitive turf instead of the public's near monopoly of prior years. Second, instead of just marginal or low-grade private universities, as in some other countries, there are serious and aspiring ones as well. Third, instead of just private institutions being almost completely private and instead of public counterparts being almost completely public, there is often more overlap–each exhibiting attributes of the other. Fourth, instead of an almost exclusively religious curriculum, we have more private universities diversifying fields of study, in particular embracing programs that have become popular in public universities. Public institutions have paying students and students in the private receive publicly funded student loans, while the privates are under more academic regulation than previously, which pushes them to have to compete for the supply of top professors that previously were almost insured for the public camp. And, as said before, increased public regulation leads to more serious private universities, thereby enhancing their credibility and greater recognition, to a point of openly challenging the historical public domination. Overall, both sectors come under fresh pressures. At least for the Kenyan case, the pressure is greater on the public than on the private. The former have much to lose, and the latter much to gain, including much that was hitherto the public preserve. A related contrast concerns the relatively smaller size of the private university sector in 1994, with only three chartered universities, compared to six in 2004 (Table 1). So ample new opportunities for employment have been created outside the public system.

In 1994, the emerging private sector, with no precedent, was not taken as a serious player in higher education. Subsequently, the sector has become well established not only as a complement to the public system, but also a serious competitor. Beyond numbers alone is the broadened robustness of private higher education, so much so that good working conditions, coupled with higher pay for private than public full-timers could have, indirectly, helped provoke the 2004 public strike.

Indeed, the main grievance in the 2004 strike revolved around poor remuneration. One comparison is to counterparts in the region (especially South Africa and Botswana) that have been preferred destinations of professors exiting from Kenya. But the main comparison is with pay at leading Kenyan private universities. The USIU, the largest private university, is the most attractive for exiting professors. Smaller classes on the private side further stimulate the transfers. Whereas some arts-based classes in a public university could typically have upwards of a thousand students (Mwiria and Ng'ethe, 2003), private universities have an average of 30-40 students, sometimes even smaller, depending on the program. Thus, public university professors have been complaining of low pay and greater workload compared to their private counterparts.

From Political to Economic Strike Motivations

The 1994 strike was essentially political, the 2004 one more economic. In 1994 a chief goal was legitimizing the faculty union, the Universities Academic Staff Union (UASU). The political empowerment of the academics through union mobilization was anathema for the regime. Consequently, it used repression to neutralize any attempts at faculty unionism. On the other hand, the political environment was more accommodative in 2004 and the union took advantage of the much-improved political environment to push through an economic agenda. The 2004 strike was therefore mainly about bread and butter. But if the government was generous politically, it proved to be less forthcoming economically, as the demands came at a time of precarious economic conditions in Kenya. When its economic rigidity threatened to be politically costly, however, the government acceded partially to the demands for a salary raise. Put another way, the 1994 strike agitated for a political cause (registration of a union), which could later be used as a forum to press an economic agenda.

The 1994 strike not only flopped, it also left a serious dent in the reputation of public universities—which were closed for over four months. Attempts at resolving the 2004 strike revolved around improving the terms and conditions of public professors, and specifically to increasing their pay scales. In response to these demands, the government commissioned its research and policy analysis department, the Kenya Institute of Public Policy Research and Analysis (KIPPRA), to recommend a 'regionally competitive' package. KIPPRA came up with figures that the government then disowned as "unworkable". It instead came up with its own figures (Table 2). According to the government, its new salary bands would be 'realistic' and within its 'current budgetary constraints.' [13]

Table 2: Comparison of Monthly Salaries

	Lecturer **(US$)**		Professor **(US$)**	
	Base	Ceiling	Base	Ceiling
Pre-strike Public University scale	549	718	1,028	1,132
KIPPRA proposal	2,586	3,397	6,312	7,186
Post-strike Government Offer (effected July 2004)	1,155	1,348	1,609	1,994
Current USIU (leading private university)*	1,000	1,400	1,707	2,400

Source: Constructed from: Siringi (2004), KIPPRA (2004), Wesonga et al. (2004)

**As the predominant private institution, USIU provides the lead, to which other private institutions respond. In this regard, the other private universities have tended to peg their salaries midway between the USIU scale and the (lower) public university figures. Public university salaries before the 2004 increment were typically lower than that of other leading private universities.*

After much debate and negotiation, the government and UASU signed a collective bargaining agreement accepting the government proposals, which became effective in July 2004. The KIPPRA proposals were quite high given the previous salary scales in the public universities. Though it is an autonomous public research center, its proposals were sympathetic to the university professors, arguably because virtually the entire KIPPRA staff are former public university professors on leave of absence or secondment and likely to get back to the university upon the expiration of their contracts. [14] But even the government proposal was significant, though much lower than the KIPPRA proposal, placing the public universities within a competitive range of the highest paying private university.

III. PRIVATE CHALLENGES TO PUBLIC DOMINANCE

In Kenya, as in Africa generally, public institutions have dominated higher education, even where private institutions were established early, and even when number of private institutions is higher than the private. This domination has had much to do with state support—for social and political reasons. However, the decline of state control with the adoption of liberalization measures has seen a surge of private institutions, which had up to the present been merely tolerated. The institutions now pose serious challenges to the public counterparts. The nature of this challenge can be explored from two standpoints: the vantage point that the private institutions have an edge over the public in market oriented practices within a liberalized environment; and, the vulnerabilities of the public sector—including strikes—within that liberalized environment.

Poised for Private Gain

The recent strikes in Kenya demonstrate that the public sector cannot wish away the threat posed by the private counterpart. For one thing, the long monopoly that public institutions enjoyed helped allow them to suppress striking faculty. A sober reality for public institutions' managers is that those days are gone, as private institutions offer a credible alternative for professors (as well as for students). Private universities have been careful, though, not to project the image of a player exploiting (or contributing to) the misfortunes of the public competitor. Instead, they relay coded and stealthy messages on several virtues of private university education. [15] For the public universities, the alternative provided by the private universities has markedly reduced the zeal with they once punished and even fired dissenting professors. Coupled with the lesser government authoritarianism, strikes create a situation where there is a steady supply of skills that were up to now scarce. For the private universities, the chartering of more institutions, enhanced admission capacity of the existing ones, increasing visibility through advertisements and the introduction of incentives (such as medical insurance) all contributed to bolstering the sector's ability to attract public staff, and sends a clear warning to the public universities to be wary of how they handle strikes and other disturbances . For aspiring and serious private universities, attracting good staff has from the beginning been a problem, and, though they little trumpet it, anything that would facilitate the exit of personnel from the public sector to their halls may be quite welcome. [16]

The limited higher education literature (mainly on Latin America) on the movement of disgruntled students from public to private universities has considered the social class character of the inter-sectoral shift. Levy (1986) found that the Latin American "exit" from public to private universities, in reaction to public disorder including strikes, has often been by rather privileged groups migrating to elite institutions. Whereas there are evidently elite private universities in Kenya (as exemplified in USIU), this kind of class-based analysis has unfortunately not been done in Africa. At the same time, the disorder of public places contributes also to more modest class families being willing to pay the fees for non-elite private places. We comment later on that there are not many elite institutions in Kenya, or in Africa more broadly. Save for USIU, the rest of Kenya's privates are neither purely elite institutions nor purely demand absorbers, but somewhere in between. Thus, while the most elite private universities are the most likely gainers from public problems, numerically this particular public-private shift is probably mostly about the in-between private institutions. The literature on student inter-sectoral shifts must be broadened, not only geographically to Africa but also to students from modest economic background. [17] They have special reason to be concerned about the economically deleterious loss of time occasioned by public disorders. They rationally seek to avoid such opportunity cost, even if it means paying tuition higher than they would pay at a public university. While "garage" private institutions probably do not present a viable alternative, serious private institutions do, even when they are non-elite.

Special Vulnerabilities of Even the Privatized Public Sector

Just as the altered configuration and additional institutional complexity of the private sector leaves it more poised to benefit from public disorder, so the altered configuration and institutional complexity of the public sector exposes it to new risks. This new risk is ironic since the public sector changes essentially involve privatization, to react not just to declining public revenue but also specifically to rising competition from private higher education. Partially privatized public universities face risks in attracting and retaining students in a liberalized environment.

Though it is not yet documented with systematic data, a number of students in the—self-sponsorship/full fee paying/parallel (Module II) programs in the public universities discontinued their studies—and others have shifted to private universities. Such students are logically more tired or wary of wastage arising from closures and stoppages than are the subsidized students. At the height of the strike in 2003/2004 academic year, an MBA program at Kenyatta University's

Institute of Open Learning (IOL) lost 15 out of its original 50 students while an MSc program in computer science lost two of (only) three students.

The Module II students can vote with their feet without great immediate financial penalty when they move from one tuition venue to another. Also, the Module II programs tend to be those similar to programs at private universities (with the possible exception of medicine and law), so, again, the public to private shift may seem logical to students. Indeed, as just noted, the Module II programs were themselves mounted in response to both dwindling public university income and the challenge posed by the growth of private universities. How frustrating then that strikes would have dire effects on these Module II programs. Evidence indicates that such loss is significant. Kenyatta University's Institute of Continuing Education (ICE) alone reported a loss of US$ 800,000 in one month (December 2003 residential session) due to the strike. This is roughly equivalent to 7.3 percent of its direct yearly government allocation. Three residential sessions [18] in a year earn the university a total of US$ 2,400,000 from one program alone. The public university vulnerability can be significant, as Module II programs already account for 50 percent of enrolment at Nairobi (Kiamba, 2003) and about 10 percent at Egerton (Mwiria and Ng'ethe, 2003). The University of Nairobi Module II generated a total of US$ 17,551,873 in 2002/2003 academic year alone. The profitability of these programs makes the university loathe any form of disorder that would jeopardize their success. Disruptions are especially unwelcome in an era of stiff competition, and more so when the public sector has made major strides in privatizing in order to attract full fee paying students.

The public university need for enhanced revenue has become all the more intense following the requirement that they contribute 20 percent of the new salaries implemented as a result of the 2004 strike. In turn, it means that the institutions have to intensify recruitment of full fee paying students. So, further keen inter-sectoral competitive dynamics are unleashed. Whereas previously the concept of full fee-paying students was associated with private universities, the public sector now finds it unavoidable to embrace this private practice and then cannot afford to see it jeopardized through disorder. The antipathy of fee paying students to instability in the public system presents a challenge to the sector to be innovative and market itself on some bases apart from those where the private counterparts have a comparative advantage. To a large extent, however, public universities seeking to find the right footing in the changed circumstances have adopted several aspects of private culture. All in all, public universities put themselves more than before on the turf of competitive market dynamics, with their attendant challenges.

Yet, while public universities partly embrace private and competitive culture, they often lack critical hallmarks of privateness. And this is where they become especially vulnerable. For, in instituting Module II programs, the institutions are inviting private sector bound clients without being able to guarantee the attributes of privateness that are critical in retaining such clientele.

Apart from the point about fee-paying Module II students, evidence (Ramani, 2004) indicates that disruptions such as witnessed recently make students in some public universities (especially Egerton and Maseno) end up taking as long as six to seven years to complete a four-year program. In fact, as a result of the 2004 strike, three public universities—including the prestigious University of Nairobi—did not graduate students in 2003. This is a stark parallel to the disorder and disillusionment that has led many Latin American students since the 1960s to spurn the public sector in favor of the private (Levy, 1986: 36-53).

The 'waiting period' before public universities may stabilize could translate into a boon to the private universities, as clients ponder the ramifications of the disturbances on the public universities. For students mindful of timely completion of studies and who can afford it, the efficient private universities become an attractive alternative. Some students are ready to consider sacrificing the advantages of public university reputation for the efficiency of private ones. The argument is that while a student enrolls in a prestigious public institution and takes longer to graduate, the counterpart in the not-so-prestigious institution joins the labor market faster. The prestige of the public institution might not in that case sufficiently help the students economically since its graduates would be late. It is partly a race against time on which public institutions score badly. Thus, one of the advantages of private institutions over public ones is the superior performance of the latter on efficiency grounds, as organizations like the World Bank repeatedly emphasize in the Third World, even though the public universities often score better on conventional considerations of quality. This is a common contrast in Africa and in much of the world.

And here is an opportunity for private universities to enhance their competitiveness by building on their efficiency advantage to secure a reputation for quality. This has happened in Latin America, fostered especially by the propensity of the privileged classes (often with the best secondary education) to take the private higher education option, thus increasing the status, networks, and arguably quality of the private sector (Levy, 1986). One avenue toward quality for Kenya's privates is to employ better and permanent staff who can be attracted away from the public universities. Strikes provide one ready opportunity. Put more negatively, from the public side, continued disruptions in the public universities directly weaken their quality and reputation and lead to rebounding effects, including the loss of good faculty and students, which then drives the quality and reputation lower.

The private drive toward enhanced standing is the result not only of its own initiative but also of public pressure via regulations. This too is a rising dynamic in much of the world, following initial periods of private growth that was largely unanticipated and unregulated (Levy 2006). Often, the principal regulatory mechanism is accreditation and this is so in Kenya. Regarding faculty, the regulatory authority requires private universities to reduce the part time-full time faculty ratio and hire more people with doctoral degrees. If the regulations lead to enhanced quality and status in top private universities that can increase the institutions' attractiveness. I'd delete ensuing sentence as repetitive and a bit off this paragraph's topic. Nor am I sure about all the rest of the parag, including since we've already mentioned the 20% point] So in the common private-public juxtaposition wherein private higher education scores higher on efficiency measures but not conventional quality measures, the high percentages of full-timers in the public universities tends to sustain both sides of the equation. Meanwhile, some of the changes effected in public universities as a result of the strike further expose them to competition from the private universities. By requiring the public universities to meet 20 per cent of the increased salaries through tuition fees from Module II programs, the government seems to endorse the partial privatization of public universities, which started in 1998. This move certainly shifts the compensation package, allowing increased salaries by cutting many across-the-board benefits that are normally not considered consistent with market competition and incentives, while at the same time introducing market oriented and private sector defined retention criteria. These criteria include productivity as measured by the teaching assessment results, supervision of graduate students, conference participation, research and publications, among others.

Implementing changes modeled on private sector's modus operandi might force the public university professors to reconsider the advantages of remaining in the public sector, when the working conditions are more or less the same as in the private. The post strike changes have only brought public professors' salaries to par with their private counterparts. While this factor alone is not likely to induce their movement to the private universities, it is still insufficient to stop that movement. Where the financial aspects of being in the public and private is similar, the private sector might win out through a better teaching environment including smaller classes and perhaps better facilities such as libraries and laboratories.

Partial privatization of public universities can present further serious risks to these institutions. Introduction of Module II programs led to student protests that saw frequent closures at the University of Nairobi (Kiamba, 2003). The requirement to meet 20 per cent of the increased salaries would, other than seeing to the intensification of Module II programs, result in increased levies (both tuition and non tuition charges) for even the subsidized students. This is politically dangerous for public universities. Already, the move by Kenyatta University to reduce the teaching practice/attachment fees for its bachelor of education students as one of the cost cutting measures resulted in a demonstration by the affected students in July 2004. Two months later, a bid by the University of Nairobi to raise nearly six million US dollars annually by increasing charges on non-tuition items by up to 500 per cent was met with street demonstrations, car stonings, and store looting student protests that led to a ten-day closure of the university.

These examples attest to the dangers inherent in privatizing measures that directly affect students financially, even where the increments may appear only modest. Such moves can result in further instability in the public universities. In any event, public universities face a dilemma:

a lack of privatization hurts their income base and thus weakens them, making them more vulnerable to private university challenges, whereas further internal privatization subjects them to social and political risks and to similarities with private universities that make the public universities lose some of their prior advantages in distinctiveness, including publicness itself.

IV. PUBLIC REFORM: A RECIPROCAL CHALLENGE TO THE PRIVATE UNIVERSITIES?

Public–private relations are becoming increasingly complex. Reform measures by one player inevitably invite counter response from the other. Institutions are challenged by external forces, but also challenge themselves to retain their identity and remain competitive, all at the same time. Here, we discuss: a).how privatization and other public sector reforms pose challenges to the private sector, and, b). how the private sector responds to these public challenges.

Public Challenges Back to the Private Sector

It would be misleading to portray public privatization as a danger merely for the public universities. More broadly, it would be misleading to portray the public university sector as a doomed or hapless victim totally on the defensive in the face of a private university onslaught. On the contrary, the public sector has shown some capacity to respond to private university challenges and this response has created challenges in turn to the private universities. Once unleashed, dual-sector dynamics can be interactive, somewhat sequential, and complex.

The reforms envisaged for the public university sector are contained in the KIPPRA (2004) report. Generally, they echo what had been proposed before by institutions such as the World Bank (2000) as well as some Kenyan scholars (e.g. Aduol, 2001), particularly with regard to improving the efficiency with which resources are used, but which the government had not taken seriously because of their political implications. The reform measures would have far-reaching implications including eliminating some of the benefits enjoyed by public professors. It is highly probable that the government acceded to the large salary increases noted in Table 2 because of the opportunity it gave to eliminate some of the benefits (which could not be matched by the private university counterparts). That is, prior to this point, salaries for public professors were "low" but guaranteed benefits were high. [19] The salary increments would have been much higher were it not for the behind the scenes lobbying by the World Bank and private varsities.

The government took advantage of the salary demands to push through reform measures that hitherto considered economically imperative but politically unpalatable. This juxtaposition of perceived economic need but political risk or impossibility is of course a common reality in much of the world, even for some authoritarian regimes. Though the universities would be unhappy about the push (e.g., sharing the increased costs of the new salaries), sensing the pain and the risk, there is an argument that the changes may also strengthen those institutions. For instance, the changes may enhance aspects of public competition with the private universities especially with regard to attracting Module II program students. So even some public actors who dislike privatizing and other efficiency measures may accept or even support them as needed in a real-world context the public universities do not control. The more its own reforms strengthen the public universities, the more the private universities have reason to pay keen attention and ponder their own counter-strategies. This is the case in the aftermath of the (2004) strike.

Public reforms that present challenges to private competitors are not limited to privatizing (especially Module II programs) or otherwise painful measures. The most obvious example is the public salary increases. They exert pressure on private institutions to increase payments to their faculty (both their own permanent staff and their part timers who are full-time in the public institutions). Indeed, it is not just about challenges to private university faculty retention. It is also about challenges to what has been the private ability to lure professors away from the public universities. Such horizontal movement of public staff to the private side is jeopardized as new public salaries compare favorably with what the best paying private university provides. As evident from Table 1, the difference in monthly salary of a public university professor and a private university counterpart would be only $100, though the gap widens in favor of the latter according to the length of service, through the higher annual increments on the private side. So while the increased public scales may remain insufficient for public university professors to abandon part (or even full) time appointments at private institutions, they may stanch the outward flow. And they are beware signs to the private universities that the hitherto poor terms for the public staff are improving and the private universities have to adjust to remain inter-sectorally attractive. Thus, the private university sub-sector still has to confront the prospect of demands for increased payments by both the public part timers and even its own permanent staff.

The new public challenge to the private universities is dynamic and complex. To increase salaries, private universities need a commensurate increase of tuition fees, their main source of income. This is a specter that private universities do not welcome. Risk emerges to tranquility, a typical bedrock of the private university appeal, as students and their families are displeased by such price hikes. Like Latin American predecessors and contemporaries facing increased private tuition, Kenyan private-sector students resort to some of the tactics associated with their disgruntled public counterparts—tactics such as strikes and demonstrations. Evidence already suggests that private universities cannot effect new fees without protest. When Daystar University looked to hike fees to manage the needed salary boost for its faculty and students protested with on campus demonstrations and holding the vice chancellor hostage. Anticipating such difficulties already when the public university union (UASU) was agitating for salary increments at the public universities, the Vice Chancellors of the three major private universities (USIU, Daystar and CUEA) along with the Kenya Methodist University (KEMU) met the Minister for Education and objected to a 100 per cent salary raise for public university faculty on the grounds that it would lead to private tuition hikes. They foresaw that such hikes could in turn lead to lower private enrolment by making private university education less affordable to the middle class, and also making it increasingly difficult for them to hire public professors as they become more expensive. [20]

Public sector privatization, including admission of fee-paying students, is one of the most serious challenges that private universities have yet to counter adequately. Before the privatization initiatives in the late 1990s, public universities could only admit students under the centrally controlled quotas by the Joint Admissions Board (JAB, an association of public university chancellors formed to coordinate admissions). JAB still regulates the admission of subsidized students but each university now admits students who fail to secure government funding. Traditionally, the students who fail to get admission under the JAB controlled government sponsorship scheme have been first-line clients for the private universities. But admission of self-sponsored students means that the public universities now compete for many students who would have otherwise been destined for the private universities. In this competition, an advantage for the public universities is that they tend to have more programs than the private ones. This advantage remains despite the Module II fees being the same as and in some cases higher than the private university fees. One would expect that high public fees would be a deterrent to enrolling in a public university. To the contrary, and to the disadvantage of the private universities, the long standing reputation of the public universities is a very strong incentive to these clients. This popularity explains why more than half of all public enrolments are in these Module II programs. Major reform initiatives make public universities look more private in some behavioral characteristics, especially regarding tuition fees, job-market Module II ties, and productivity-based performance benchmarks (Levy, 1999). As in much of Africa and beyond, the government is encouraging more private university culture and of course finance in the public universities.

While some of the privatizing reforms (e.g. meeting 20 per cent of salaries and performance based benchmarks) inflict some unwelcome pain on the public universities, others (like restricting the time lecturers are permitted for part time teaching in the private universities), may simultaneously bolster them and undermine private universities. Inevitably, private universities have to ponder how to counter this challenge. .

Private University Counter Responses

The aftermath of the strike is not the first time that developments in the public university sector induce counter response from the private counterpart. When public universities began the self-sponsored, Module II programs, private universities were forced to raise part-time wage payments in order to retain public university faculty who now had a choice of undertaking internal part-time teaching in their home institutions. The point has applied not just to Kenyan staff but also to staff from other countries.

The main challenge to the private universities lies in the fresh competition from the public counterparts. The challenge stems from elements of public university strengthening, especially when accomplished on turf previously confined to the private university.

Thus, one competitive policy response by leading private universities is to replicate the content of popular Module II programs in the public sector, though they are averse to using this public university nomenclature. Whereas tuition in the public universities in the Module II programs is on average much higher than in the regular programs, the privates' Module II programs are much cheaper than the regular programs. For instance, at the private KEMU, tuition in regular programs is US$ 830 compared to the new 'distance learning mode' of US$ 399.4 per semester. At the private ANU, the Bachelor of Commerce program costs US$ 1,158 while it costs US$ 1,038 per semester for its recently started evening classes. In short, the private institutions are aware of their disadvantaged position at least insofar as they are expensive and the new challenge from the public universities forces them to change. [21]

Another area where public universities have had an edge is staff development/training programs. Private universities had been reluctant to give their staff study leave to pursue doctoral programs overseas. They fear that once they get PhDs, they may not go back to the universities and would most probably look for opportunities elsewhere, including in the public universities. This has now changed and almost all good private universities encourage their staff to undertake doctoral studies. They even go as far as sponsoring them through scholarships or granting leave with pay for the duration of the studies. Thus, in this respect, private universities respond to where their weaknesses hurt them in competition with public universities, but of course this comes at a direct financial cost.

Private universities have also been lobbying the state to 'level the playing field' —a common cry in countries with two higher education sectors—by allowing its students to access publicly funded loans just like the regular students in public universities. This has the potential of widening choice for students. Those wishing to escape the public difficulties (including long study duration and strikes) may opt for private universities especially if they can secure loans. This is already happening. Otieno (2004) shows that in 2002/2003 academic year, on average 77.3 per cent and 95.1 percent of all private and public university students apply for the state funded loans. Of these, 15 per cent of private applicants and 51 per cent of public applicants get the loans. An implication is that with increased program offerings, private universities have the potential of eating into the public share of state funded students. This will not only increase their capital base, but justify their role in meeting the demand for increased access, in brief, legitimizing their claim over the state, and thereby demanding equal treatment. In turn, this would constitute yet another challenge to public universities.

Individual private universities have also come up with other incentives to attract and retain staff. The most important is the medical cover for staff members and their families. Initially, it was assumed that the better private university pay was enough to retain the staff. However, the increased public pay now competitively challenges the private, meaning that additional incentives are necessary to motivate their staff. These measures by private universities again demonstrate how reforms in public universities are inducing counter survival measures by private institutions. For now, there can be no certainty saying how effective these counter reform measures will be in balancing the public university reforms. What is clear is that private universities still face several challenges, not least of which is greater diversification of academic programs beyond mere secularization, especially for the religious ones.

Where private counter strategies lead to more parallels to public forms, private universities face fresh challenges. Examples could involve any public funding and public regulation, including matters of accreditation and status seeking. Already private universities are lobbying the ministry more than in the past. Academic staff with education and credentials more like those in public counterparts will also exert force, limiting the power of administrators and owners, and bringing greater "isomorphism" to public patterns. Something similar happens where private universities are successful in attracting high quality students. How to preserve essential elements of privateness while looking more public - especially as the public looks more private—is a central issue with few easy answers.

It is in this context that we can again consider matters like student protests. One private university approach is hard-line. Following protests by its students, the Daystar administration suspended the student leaders accused of inciting the student body. In response, students organized and contributed funds to sue the university on behalf of the suspended student leaders—yet another replication of tactics hitherto known only in public universities. [22] So the episode demonstrates a previously unthinkable emboldening to confront administrators and the precedent could well filter into other private universities. [23] Yet a soft-line response to demands risks undermining private efficiency and angering students and parents who continue to expect order. The aftermath of the public strike and ensuing reforms has placed private universities into awkward positions with respect to both faculty and student competition and changing norms.

V. CONCLUSION

Faculty strikes have not been a subject of major scholarly attention. Beyond that, even the more common and more studied student strikes have not been much analyzed inter-sectorally.

Whereas the literature does establish that private strikes are rare compared to public strikes, this case study of Kenya is the first principally devoted to the private-public impacts of public strikes and disorder. Its main contribution thus lies in the extensiveness of its inter-sectoral analysis. Furthermore, compared to prior analysis, it carries us onto new terrain in several important ways: from Latin America to Africa, from student to faculty disorder, from boons just for elite private higher education to a broader array of private institutions, and from challenges facing the public sector to challenges facing the private sector. Notwithstanding the last consideration, our main substantive and conceptual findings concern how public problems turn into private opportunities, albeit not always. A monopoly can perhaps afford policies and disruptions that competition punishes.

The Kenyan case reveals much about inter-sectoral competition, previously unknown in Africa. Competition brings new uneasiness along with new dynamism in public-private university relations. At least when the public disorder involves faculty strikes, each sector has to be concerned about retention or recruitment of qualified professors. Additionally, however, there are also major implications regarding competition for students, particularly given the newly important reality of public Module II fee-paying students in marketable fields. In an intriguing inter-sectoral dynamic, the competition turns out not to be one-sided, with privates simply benefiting. On the contrary, the public sector may retain several competitive advantages (in traditional status, government subsidies, comparatively low tuition) and then reform itself for the new competitive era—principally through its own privatization measures. Therefore, the private sector then faces challenges in the new public-private competition. The aftermath of the strike highlights the teething problems a nascent private higher education sector may face in an environment long dominated by public provision and now witnessing true inter-sectoral competition.

Yet vigorous inter-sectoral competition is itself a remarkable achievement for private higher education. After all, the private sector is still very young. This is the case in much of Africa (and in much of the post-communist world as well). It was originally greeted with either surprise or relative indifference, as likely a rather peripheral sector, one able to attract demand not accommodated in the public sector but not able to challenge that sector at a real university level. The inter-sectoral competition reflects private strengths, greater than generally anticipated. It also reflects public weaknesses, also probably greater than generally anticipated. We have focused on the impact of public faculty strikes, which, in turn, reflect broader public disorders and vulnerabilities. Even where public university reform has brought new vitality, and competitively challenged the private sector, it has also brought an identity crisis to the public sector, now increasingly privatized and market-dependent, with diminished government support and guarantees.

Public faculty strikes have propelled the private university as a serious player that can no longer be regarded as merely an upstart or 'intruder'. Private universities have come a long way in complementing the public role in expanding access to higher education, and crucially, providing a much-needed alternative to public inefficiency. Although the public system is far too entrenched and attractive to lose out altogether to the private sector, it faces a new set of challenges, challenges that can be overwhelming if troublesome traditional ways persist. In turn, public problems have already been a boon for private institutions, in regard to both the student and faculty body.

Key changes that the public institutions are compelled to introduce have been pioneered in the private sector, in some form or other. External stimuli have been largely responsible. The government has pushed radical proposals on partially privatizing financing and, mostly, the private higher education sector has forced public institutions to reform. However, a public sector that reforms successfully places its own fresh set of challenges to the private sector. In the new competitive world, what transpires in one sector carries great implications for the other sector and inter-sectoral impacts stimulate other inter-sectoral impacts.

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APPENDIX 1: PUBLIC AND PRIVATE UNIVERSITY ENROLMENT, 1994, 2004

University	Year Set up[1]	Enrolment	
		1994	2004[2]
a) Public			
University of Nairobi	1970	12,533	30,568
Moi University	1984	5,234	10, 674
Kenyatta University	1985	8,452	16,056
Egerton University	1985	1,933	8,597
Jomo Kenyatta Univ. of Agriculture & Technology	1999	1,728	6,674
Maseno University	2000	1,391	5,531
Public University Total		31,271	*77,700*
b) Private			
i) Chartered			
The University of Eastern Africa, Baraton	1991	922	1,531
The Catholic University of East Africa	1992	1,207	1,803
Daystar University	1994	1,250	2,135
Scott Theological College	1997	78	-
United States International University	1999	1,753	2,931
Africa Nazarene University	2002	198	350
Chartered Private University Subtotal		5,408	8,750
ii) Letters of Interim Authority (LIA)			
Kenya Methodist University	1997	N/A	231
Kabarak University	2000	N/A	81
Kiriiri Women's Univ. of Science & Technology	2002	N/A	92
Aga Khan University	2002	N/A	154
Strathmore University	2002	N/A	104
Subtotal			662
iii) Registered			
Nairobi Evangelical Graduate School of Theology	1989	106	
Pan African Christian College	1989	102	
Nairobi International School of Theology	1989	55	
Kenya Highlands Bible College	1989	75	1,500
St. Paul's Theological College	1989	101	
East African School of Theology	1989	139	
Subtotal		**578**	**1500**

Sources: Constructed from: Otieno (2005); Wesonga et al. (2004); Kenya, (2003); Mwiria and Ng'ethe (2003) and Ngome (2000)

Appendix notes:

[1]For public universities, dates refer to start of operations or elevation from a college status. For private universities, dates refer to the time when the applicable license was granted. The various levels of accreditation are explained in endnote 8 [hh: but watch that this remains the right one.

[2]2004 data could not be obtained by university

N/A – Institutions had not yet been established

NOTES

[1] A fair attempt at analyzing scale of student protest in much of sub-Saharan Africa (Balsvik 1998) concludes that disruption of learning is an endemic problem.

[2] On Latin America, see Levy (1981). Some general political causes of faculty strikes in Africa are known, even where not documented. Government intervention is common. For example at Ethiopia's University of Addis Ababa (1993), the government dismissed 42 professors including some of the best and even only ones in their fields of specialization, though the government later admitted it regretted the 'manner' (not the 'act') of their expulsion. Ironically, the political leadership had sprouted from university activism. See Ethiopian *Press Digest*, September 5, 2002. In Africa: Amutabi (2002) as well as Klopp and Orina (2002) on Kenya; Anugwom (2002) on Nigeria; Konings (2002) on Cameroon; Charlton, Mlungisi, & Arial (2006) on South Africa. It is difficult to find a study that has much to say relating strikes to the private sector.

[3] Munene (2003). Broader literature on student politics has made the general point about student influence declining when development brings the emergence of stronger society.
Silvert (1967).

[4] Even where there is faculty disruption, student disruption is often more prominent. For example, whereas Quebec's college faculty launched a half-day strike due to contract issues in Spring 2005 and threatened more such action, students carried out the main action in both higher and secondary education (Krauss 2005). How much the absence of scholarship on faculty strikes stems from the lack of such strikes and how much from unwarranted scholarly inattention is impossible to say at this point. In addition to reviewing literature on strikes, the authors have consulted some leading experts on faculty issues, confirming the rarity of faculty strikes outside Africa. We are grateful, for example, to Philip Altbach for feedback on this point and hope that the present paper raises awareness and perhaps prompts more examination of cases. Although there are now ample comparative international studies of the academic profession (e.g., Altbach 1996) there is still little outside the US about faculty activism. Exceptions include Harrison and Tabory (1980).

[5] A parallel point with similar logic concerns student strikes. In some ways this is a more important point, since student strikes have been more prominent than faculty strikes globally. Additionally, the rising proportion of part-time students—especially notable for private institutions—has greatly undermined the potential for effective and common student strikes. This is documented for Latin America, as is the general tendency to diminished student protest power as students get more and more fragmented by institutional type, including private-public (Levy 1991).

[6] Some important literature about private non-profit sectors considers private gains from perceived public failures (Weisbord 1988; Hirschman 1970). For the most extensive application and exploration in higher education, Levy 1986.

[7] On the global point, (Levy, 2006). On Africa, see Mabizela, Levy, Otieno, forthcoming. This special journal issue marks the first extensive treatment of African private higher education.

[8] The accreditation system in Kenya groups institutions in three categories depending on the extent to which they have met given criteria. First are accredited or chartered institutions. These have been given

official recognition and written confirmation by charter, certificate or other documentation issued by the country's regulatory authority – the Commission for Higher Education (CHE). The charter signifies a higher education institution has met and continues to meet the academic standards set by the commission. Second are the universities given a Letter of Interim Authority. Such a letter authorizes a person or institution named therein to make preparation towards the implementation of proposal accepted by CHE, including admission of students to CHE-specified programs. Third are the Registered Universities. These predate the CHE (1985) and graduated at least one class of students by then. They were issued a Certificate of Registration upon the inception of CHE and on implementation of Universities Rules, 1989 (Otieno, forthcoming).

[9] Wesonga et al. 2004. In fact, the full-time professoriate of Kenya's leading private universities appears rather impressive in international perspective.

[10] Despite the array of programs in pubic universities, and the domination of religiously affiliated institutions in the private sector, even the secular private universities provide competition to the public sector in specific niche areas: business studies, computer and information technology, including journalism, diplomacy and international relations, etc. These programs in the privates tend to be relatively large, so that at USIU, slightly more than half its enrolments are in these programs alone. But such programs are often the fortes of some of the publics – resulting in intense competition. Any disorder, such as exhibited by strikes, is, therefore, to the publics, a curse.

[11] Though the focus here is on the two strikes, yet another in 2006-07 followed closely the 2004 strike and was in fact an outcome of the negotiations that ended the 2004 strike. We choose here to treat that strike as part of the 2004 not only for being an outcome of the 2004 but also due to the similarity of circumstances and causes. As a result of the 2006-07 strike, all universities except the University of Nairobi closed for more than one month, and led to the dismissal of over 40 lecturers in six public universities, though a few were later reinstated.

[12] Faculty, professors and lecturers have different meanings in British and American usage. Terms partly overlap but convey different meanings in the two systems. In the British, system a university teacher is a lecturer, and a professor is the senior-most university lecturer/teacher. In the American system, 'professor' is a generic term for a university teacher. The typical designation of professorial ranks is assistant, associate, and full, though there are an increasing number of part-time adjuncts or lecturers. In the British system, ascending ranks are tutorial fellow, assistant lecturer, senior lecturer, associate professor, and professor. Though Kenya is a country accustomed to British usage, we incline to American usage for this working paper.

[13] In 2006 October – 2007 February, public universities staged another strike demanding higher salaries but were given an offer of between 10 – 14 percent by the government citing the same constraints. The universities staff union initially rejected this offer, prolonging the strike further and leading to the universities adopting even more hard-line positions that saw the sacking of about 40 lecturers from almost all public universities except the University of Nairobi. Although the lecturers termed this increase minimal, the raise improved their perks to a level higher than most privates (the increment after the 2004 strike brought them to par with the best paying privates).

[14] This is unpaid leave granted to staff to take up employment in another organization but with a guarantee of returning to their jobs once their contract in that other organization ends.

[15] The virtues that private universities market range from efficiency, uninterrupted tranquility, smaller classes, and quality education resulting from well equipped and modern facilities such as libraries and lecture theatres, among others. The University of South Africa (UNISA), has, for example been aggressively advertising in the local press to attract students with the slogan: "enrol with UNISA and be guaranteed of high quality education that is free of interruptions." Whereas some of the claims, such as efficiency and job-market ties, are quite typical for private higher education, others, such as superior facilities, are internationally less common. In any event, the Kenyan private claims are ample, usually credible, and often persuasive, echoing those made frequently by the serious private universities in much of Africa and beyond.

[16] One of the unanticipated outcomes of the strike is the strengthening of private university faculty and hiring procedures. Hitherto relaxed and open to almost any willing public university staff who chose to move—at least with the minimum qualifications— private universities have tightened conditions and are beginning to be selective on who to take from among even the leading public professors. Developments like the one seen in Kenya do enhance the status of the institutions. This particular trait is one that probably sets the Kenyan institutions apart—they are not mere demand absorbers but serious quality institutions.

[17] Moreover, after Levy's analysis done around 1980, the great growth in Latin America's region's private enrolment has not been elite but much more modest, some demand-absorbing and some in between. It is likely, then, that the region would show significant parallels to what we find in the Kenyan/African case.

[18] The public Module II programs are mounted on different 'platforms'. The most popular are the evening classes for the centrally located institutions like the University of Nairobi. The other most popular platform, especially in schools of education, are school based: teachers report for on site instruction during school holidays. This happens three times a year. Such on site instruction for school based programs are called 'sessions.'

[19] This common juxtaposition of high security with benefits on the one hand and low pay on the other helps explain how the World Bank and others can bemoan inefficient excess rewards while African professors can decry poor compensation. The same holds in Latin America.

[20] In comparative historical perspective, we can see increased public salaries leading to increased private salaries and thus increased tuition as a kind of inter-sectoral market dynamic. It contrasts with frequent anti-market official policy that blocks private institutions from setting tuition above a certain level. The market approach tends to bring concern about tuitions running too high, while the government approach tends to bring private university concern about tuitions running too low. Tuitions pushed higher force private institutions to re-justify themselves to their current and potential customers, with fear that a loss of enrolment could bring a vicious cycle in which tuitions might have to increase still further, thus driving away more families. On the other hand, tuitions coercively held low risk a vicious cycle through institutions' inability to pay the costs of quality and improvement, in turn becoming less attractive to students and faculty. Of course, tuition level dilemmas are common and logical for private universities. Our point here concerns the inter-sectoral effects and challenges emanating from the public sector. Looking ahead, private troubles in effect toss issues and challenges back over to the public side as both public universities and governments must ponder plausible knock-on effects on their side. First and foremost could be a sudden need to cater to a much greater share of national enrolment, presumably without adequate funds. Alternatively, government could opt to give subsidies and loans to the private side, enough to keep the institutions viable and thus avoid a mass movement toward the public university

(where the government would have to cover most costs). Another preoccupying effect as seen from government could be to lose the private force that has stimulating public university sector reform. That loss could come from the general weakening and decreased size of the privates or it could come from their decreased "privateness" as more money flows in, presumably then with more regulations.

[21] This second-choice question is relevant to good private universities in much of the world, where the first choice usually remains the public sector's top places (Slantcheva and Levy, 2007. No study has treated this phenomenon in Kenya and there is precious little analysis globally. Some of the competing private universities could be "semi-elite."

[22] Latin America shows precedent. Student demonstrations had already had strong tradition in public universities, whereas private universities presented themselves as orderly alternatives. By the 1960s, however, student movements grew even at private universities, at least Catholic ones (Levy 1986). More generally, as at private schools, student protests at private colleges and universities often have to do with fees.

[23] The university has not indicated whether it will rescind its decision to increase fees or stand its ground. So far, only Daystar has openly increased tuition fees. It is possible that other private universities are agonizing over the modalities of fee increases especially given the reaction of the student body at Daystar, a scenario management would love to avoid.