

**PROVISIONS FOR PRIVATE HIGHER EDUCATION PROVIDERS
IN ETHIOPIA: ANALYTICAL SUMMARY
OF THE 2009 PROCLAMATION**

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Introduction

The Higher Education Proclamation of 2003 set Ethiopia's first ever legalization and groundwork for the overall direction of the private sector. It came in the wake of seemingly uncontrolled, rapid growth in enrollment and institutional proliferation. It thus fit the notion of "delayed regulation." Indeed, however stunning it may appear--doubly so as Ethiopia has one of the largest private higher education sectors in Sub-Saharan Africa (along with South Africa and Uganda)--this was Ethiopia's first legislation ever for higher education. Previously all that had existed were accreditation rules for private institutions. Six years after the first proclamation, the government issued a second (September 2009). Though it had gone through varied consultative processes before assuming its final shape, this second proclamation, as well as the consultative process itself, remains controversial. It is worthwhile to understand the second proclamation and its contents in comparison with the prior proclamation, with our particular focus on articles pertinent to private higher education providers.

A voluminous treatise with 66 pages to its name, the 2009 proclamation is in some ways an extension/modification of its antecedent, and in some other ways a significant departure introducing new directions. With alarm, the fledging private sector has viewed some sections as

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appearing to go backwards as compared to the 2003 bill, which they had found far better in addressing their aspirations and concerns.

Provisions Moderately Modifying Earlier Practices

We may turn first to the 2009 proclamation's provisions that largely extend or modify practices. Continuity is mainly reflected in provisions laid down for university governance, teaching and learning, assessment of students, institutional nomenclature, and accreditation of private institutions.

The 2009 proclamation maintains the accreditation practice which is still meant to apply to private institutions as enforced by the Higher Education Relevance and Quality Agency (HERQA).

Turning to modifications brought by the 2009 proclamation, the pre-accreditation practice introduced in 2003 has been abolished. In its place, institutions are required to apply directly for accreditation which, unlike the previous years, is uniformly required for establishing, upgrading or modifying private institutions. The 2009 proclamation also stipulates that institutions receiving the accreditation permit shall be required to request reaccreditation after an initial period of three years. The re-accreditation period has also been extended to five years in the 2009 proclamation (Article 77.2). Although some in the private sector consider these modifications as improvements over the earlier bureaucratic procedure of passing through two steps, others fear the changes lower the guard against unscrupulous providers that do not merit immediate recognition.

Furthermore, the 2009 proclamation has created an appeal system for private institutions that wish to contest the decisions of HERQA which is entrusted with this responsibility. The formal procedures established by the new proclamation dictates that the appeal should be lodged to the Ministry of Education, whereas formerly such appeals went to HERQA itself.

Provisions Introducing New Changes

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The 2009 proclamation also incorporates provisions not treated in the earlier proclamation. New provisions set for the whole sector relate to regulations on internal quality assurance, the introduction of a tenure regimen in the public sector, the appeal system for accreditation decisions, university- industry relations, and national standards for teaching and research. Some of the new provisions could be regarded as outcomes of the need for addressing gaps in the first proclamation. Others seem to have been included to provide the legal basis for an evolving higher education system that attempts to incorporate emerging issues and needs.

Although most of the new provisions are about the public sector, some pertain to the private sector as well. None, however, apply solely to the private sector and none apply even mostly to the private sector. One such feature is the emphasis given to internal quality audit and enhancement systems. The 2003 proclamation lacked articles in this area, excepting those on pre- accreditation and accreditation mechanisms that exclusively applied to the private sector. The fact that the new provisions on quality enhancement and internal quality audit equally concern both government and private institutions is a new dimension that has been introduced through the 2009 proclamation. This is thought to address partly issues of double standards that existed between the public and private sectors, double standards widely criticized by the private sector.

The 2009 proclamation also introduced for the first time the possibility of granting government financial subsidy to private institutions. However, only non-profit institutions are eligible whereas Ethiopia stands out for having so few nonprofit institutions (mostly religious and “nongovernment”) in higher education. Representatives of the mostly for-profit private sector mock the government’s choice of offering assistance for institutions that do not exist, while freezing out many that have been clamoring for such support for nearly two decades now.

According to the 2009 proclamation, there shall be national standards for research and teaching load and minimum academic staff ratios (Article 30.5) as requirements for public institutions. However, the article further hints that the Ministry of Education may apply the same standard on

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private providers. This may pose further challenges for private institutions that have been operating by their own terms and standards. As is the case in other countries, private institutions—especially for-profit ones—rarely have a major research presence, though this generalization allows for exceptions and, pretenses aside, many public universities do not do much major research. Ethiopia also displays intersectoral differences in teaching. While the load in the public sector is 12 hours per week, it is 15-18 in the private sector, with implications in terms of staff salary and employment. If privates are asked to go by the public’s standard, this will have implications in terms of employment and extra payment.

Provisions Drawing Private Ire

Alongside the potentially “short reach” of government funds limited in the private sector to only nonprofits, the potentially “long reach” of imposed standards, including research is not the only provision of the 2009 law that draws major private sector ire. The removal and watering down of many favorable provisions in the 2003 proclamation are additional sources of discontent for private institutions. In a significant departure from earlier practices, the 2003 proclamation had provisions that allowed joint appointment among private and public higher education institutions. This provision is now replaced with an article that bars academic staff of a public institution (or any government employee) from being jointly appointed by a private institution. This will be a serious challenge to the private sector especially in some specialization areas and regions where the lack of manpower is critical. Dependence on part-time faculty, many employed primarily (some even as “full-time”) at public universities, is quite common for private institutions in Africa and most of the world; thus, just as with research requirements, demanding provisions on academic standing threaten to have major consequences on the private sector. Whereas HERQA demands that at least 30% of private institutional staff have PhDs only 15% of current total Ethiopian (not just private) academic staff do. In such an environment of austerity where the private sector cannot avoid using staff from the public sector putting an embargo on staff working in both sectors has implications for the Ethiopian system in general and its private sector in particular.

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The time that HERQA should take to issue an accreditation permit has also been changed from the three months specified in the 2003 proclamation to an unspecified time through the use of the phrase ‘a reasonable time period.’ This exempts the Agency from the previous restriction laid on it in terms of the specific time it should take to issue such a permit. And in fact with the increasing demands from the private sector the agency is taking a lot of time to process accreditations with no legal provisions to hold it accountable. Late responses on their part are routinely explained in terms of the agency’s ‘excessive workload’.

In the 2003 proclamation the admission requirement for adult learners was clearly laid out for the first time and the mandate was given to individual institutions (public or private): ‘special admission procedures, to be issued pursuant to the regulations of the institution, may be set for adults and experienced students’. The new proclamation reserves this right exclusively to public institutions. Private institutions can make use of such rules only if the Ministry agrees to extend the provision to them (Article 39.5). Private higher education had hoped that such provisions would have better allowed adult learners to join their continuing education programs without being deterred by admission requirements set for regular students.

Despite the new developments with regard to the requirements for earning the status of a ‘University’, the 2009 proclamation prohibits new private institutions from using such names as University College, College, and even Institution without legal permission. Whereas restrictions on use of the university label are common globally, and a related argument might extend to “university college,” restricting the use of “college” and “institution” may be peculiar to Ethiopia. Some of the private institutions are left perplexed at what to call themselves. It is not thus clear what designation a private institution might assume at its establishment as none of the designations listed in the proclamation can be used before institutions are evaluated for meeting requirements set. The 2003 proclamation placed inhibiting requirements only on those that use the ‘university’ designation.

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The issuance in 2009 of the second higher education proclamation in Ethiopia aroused the hope, including in the private sector, of strengthening the higher education sector and enriching what was set in the earlier proclamation. But, although most groups apparently see areas of improvement in responding to trends and gaps in earlier practices, many find the new regulation disappointing in many respects, especially when it comes to private institutions.

Another issue of concern for the sector has been how much proclamations are translated into actions. Despite the availability of legislation that governs the sector, expectations of private providers are at times marred by the transgression or neglect of the provisions by regulatory bodies meant to protect them. A case in point is the government's moratorium on such fields of studies as teacher education and law that are no more offered by the private sector, albeit no such restrictions existed in legal provisions. Perhaps aware of the deficiencies of the 2009 proclamation, the government now seems to be considering issuance of a third higher education proclamation, perhaps in the near future. However many new proclamations appear in the future, their provisions need to be not only sound but also widely respected in practice.

References

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