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A Review of the Implications of the Public University Bill, 2020 on University Financing In Ghana

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Abstract
Public universities have in recent times come under increasing regulations from governments borne in part by governments' funding of universities. At one end, government regulations help to promote accountability and good governance in public universities. At the other end, regulations have sometimes come with a cost as they impose rigidities within which universities must operate. The resultant effect of such rigidities brought about by regulations is decreased flexibility and innovations in university operations. Generally speaking, such regulations affect various facets of universities including its governance, administration, disclosure, finances and academic freedom. This study from this backdrop primarily assesses the effects of regulations on one of the core areas of the university namely university financing. Given the declining state funding of public universities coupled with the increase in enrolment and the rising cost of infrastructure, universities must be accorded some greater autonomy and flexibility in searching for alternative funding sources. This task is however constrained by increasing regulations. The study specifically assesses the implications of a proposed public university bill herein identified as New Public University Bill, 2020 on university financing in Ghana. The study adopts theoretical scientific research which entails analysis, synthesis, induction, deductive reasoning and comparison. Data is gathered from multiple sources chiefly comprising practitioner literature, research papers and journal articles. A review and analysis of the Public University Bill 2020 in the study reveal that the bill harms university financing. Some of the provisions in the bill such as lack of representation of alumni, restrictions on university finance officers' role and the provision on the requirement of approval of certain university decisions by governments acting through the Ghana Tertiary Education Commission (GTEC) have adverse likely impact on the financing of the Universities. Based on the research outcome, certain policy paths are suggested to ensure that legislations do not result in an adverse negative impact on university financing.

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I. Introduction

Traditionally, universities and other tertiary institutions have not witnessed a huge level of regulations until recent times as they were accorded some level of discretion and autonomy in the management of their institutions. As States now contribute greatly towards the funding of universities, governments across the globe have sought to introduce legislation that regulates the management and governance of universities. As Sirluck (1974) argues, the past years have seen a changing nature of the relationship between governments and universities. This change is witnessed on several fronts and may take such forms like the abolition of buffer mechanisms, sometimes in their transformation into control mechanisms, sometimes in contingent financing, sometimes in overt government intervention despite legalities, and even sometimes in more subtle ways. In some jurisdictions, there are broad legal provisions and frameworks recognized by national constitutions which make explicit regulations on higher education including universities. In other countries, some regulatory agencies have also been given some authority to make rules on certain aspects of the universities. More so, in other countries, national constitutions clearly define the power and authority of university councils and other relevant bodies such as academic boards. Government interests may also be seen in the representation of university governing bodies through personnel appointed by the Ministry of Education (Williamson, 1985). Generally, Blackmur (2007) argues that university regulations are not necessarily bad as by doing that governments seek to engender some level of quality assurance. Thus, government regulation of universities involves some processes of identifying characteristics (qualities), defining required performance standards (desired quality) for each, and monitoring of performance (actual quality) which altogether reflect principles of quality assurance. According to Ajayi (1996) whilst university institutional autonomy remains the desired outcome, one can still not disregard institutional accountability which arguably remains one of the triggers of government regulations on higher educational institutions. When one considers the high level of government investment in higher education, there is a need to strike a fit between institutional autonomy and institutional accountability. It is a legitimate concern that governments become concerned with how the part of public money allocated to universities are spent and on whether universities are living up to expectation based on international standards. It has however been argued by others that university regulations by governments tend to spark rigid and limiting framework within which universities must operate. Attempts by universities to comply with such regulations often do not only prove costly but also ineffective. Proponents of this view consider university autonomy as a necessary ingredient towards effective university governance and management. Ojo (1990) describes university autonomy as that freedom granted each university to manage its internal affairs without undue interference from outside bodies, persons, or, most especially, from the government that in most parts of Africa, sustains it financially'. In specific terms, institutional autonomy in a university context implies its control over certain aspects like the freedom of universities to select their students and staff by criteria chosen by the universities themselves; autonomy to shape their curriculum and syllabus, and the freedom to decide how to allocate, among their various activities, such funds as are made available to them. Broadly speaking, this may also mean the freedom of the university to make decisions regarding such domains of issues like academic affairs, faculty and student affairs, business affairs, and external relations.

In a recent forum on tertiary education, the Minister of Education, Dr Mathew Opoku Prempeh hinted of government's intention to introduce a new public university bill for the governance and administration of universities. Factors like outmoded acts/laws and the need to ensure oversight and accountability, and the need for university governance structure to reflect principles of corporate governance were cited by the Minister as a justification of the introduction of the bill. Whilst such justification has some level of validity, Universities and other Civil Society Organisations, and other “Think-tanks” have expressed some reservations with this bill. Some of the provisions have been questioned as they are seen as potential bottlenecks to the smooth operation of universities. From this backdrop, this study purports to examine the implications of the proposed university bill on one of the important areas of the life of the universities namely university financing in Ghana. The paper refers to certain provisions that can inhibit efforts to search for sustainable financing of universities. The paper, in the end, calls for university regulations to ensure some flexibility and also charges regulators to reflect on the cost of university regulations to ensure that regulations do not affect the smooth function of universities.

II. Literature review

Generally, the literature on the impact of legislation on university financing appears limited. The existing strands of the literature concentrate on the effect of legislation on universities as a whole. Smith et al. (2011) have documented that regulations on universities present heavy burdens in the form of compliance costs. Besides these effects, regulations also impact on the morale and researchers within universities. It is argued that faculties often have to devote much time to many activities which are related to compliance with federal regulations. This suggests that in an environment already characterized by scarcity of resources, the requirements imposed by compliance seriously take out researchers’ time from the laboratory and also reduces their ability to undertake research that promotes innovations in society.

The analysis undertaken by Kirwan and Zeppos (2015) reveals that institutions face a miscellany of problems due to increasing regulations. One of the arguments put forward by these authors is that a heavy-handed and poorly designed regulations have a devastating impact on universities. It has been found out that there is usually a difficulty in measuring the costs and benefits of regulations. One reason attributed to this is that regulations are normally absorbed by staff who may be performing other functions and this add to their workload. It is again observed that in estimating the cost of complying with new regulations, one may fail to acknowledge the nexus between new and existing requirements. Regulations are not mutually exclusive and the interplay of multiple requirements only worsen compliance costs. The empirical validity of this finding has been corroborated by a recent publication by the American Action Forum found that the number of individuals in higher education with the title of “compliance officer” has increased by 33 per cent in the last decade. A related channel through which universities incur extra compliance costs is that regulations may require colleges and universities to become expert in unfamiliar topics or to hire outside consultants with such expertise. This means diverting of funds which otherwise could have been used to promote other cherished outcomes like students’ success.

Kirwan and Zeppos (2015) also contend that regulation can be a barrier to institutional innovation. In particular, excessive regulations can hinder the ability of universities to innovate in ways that benefit their publics. They draw on the example of the USA where the education department policy on state authorization has ended up discouraging institutional efforts to expand distance education offerings. Due to the frequent insistence by the education department that institutions must meet state requirements in any state where students reside as a condition of federal aid eligibility, many institutions have restricted their educational offerings in certain states, which in turn limits access to higher education.

Ajayi et al.(1996) observe that teaching and research suffer irrespective of whether universities are rigidly supervised or wholly autonomous. It is observed that as decision-makers, academics need to be in partnership with entities they should be answerable to. This partner could be a state bureaucracy, or their university administration, or a foundation or any authority to which they must regularly demonstrate the relevance of their activities to earn the necessary funding. In the African context, experiences affirm that institutional accountability rather poses threat to institutional autonomy because government finance officers, who are sometimes ill-equipped to make educational decisions usually, take key decisions that impact on educational institutions in the long term. The reality is that most governments in Africa utilize financial control to influence and sometimes to direct their universities on the rate of growth both in terms of capital development and student intake, the staffing of universities and the remuneration payable to academic staff. In this regard, it might be said that some degree of financial autonomy is essential for the effective operation of the universities.

III. Methodology

The methodology applied in this study is the theoretical scientific research. This methodology relies on analysis, synthesis, induction, deductive reasoning and comparison. The data collected is adapted from published literature in the forms of journals, practitioner reports, and research papers. Through this, the study generates thorough insights into the research phenomenon being studied made possible by digesting the views of many scholars and making logical inferences. According to Gilson and Goldberg (2015), one hallmark of conceptual papers is the proposition of new associations between and among constructs. Instead of undertaking empirical testing, one formulates logical and complete arguments about relationships. In the context of the study, the study carries out a more theoretical discourse on the effect of the new university bill on university financing. We draw on theoretical sayings on the effect of regulations on university operations in general and in the process attempt to contextualize it to university finances through abstractions. This methodological thinking takes its root from a framework introduced by Toulmin (1998), a British philosopher and subsequently disseminated by Hirschheim (2008). In this conceptual framework, an argument is considered as possessing two ingredients namely claims and grounds. Claims describe an explicit statement that a reader is confronted to accept as valid and true. In the current study, the claim reflects the thinking that the university bill has a potential effect on the financing situation of universities. Grounds describe the reasons adduced for such claims. Therefore, the grounds relate to how various regulations impact on university financing. To contextualize it, grounds describe how various provisions in the new public university bill can adversely affect the financing of universities. Hirschheim (2008) avers that conceptual papers base their analysis on evidence from prior studies instead of primary data. In line with this, analysis in the study take clues from findings and perspectives reported by authors of previous studies. MacInnis (2011) observes that theoretical research is capable of generating a rich understanding of a research phenomenon usually through the linking of previous research in a novel way though they may be unrelated.

IV. Results and Discussions

One of the provisions in the bill that can impact on the financing of universities is the restriction of the functions of The Director of Finance as prescribed in the Statutes of the public university. In reality, Finance Directors in universities can contribute to university financing in most important ways. Conceiving financing from a broader sense, this regulation will limit the extent to which Finance Directors can be innovative as far as the financing of the university is concerned. Given the growing resource scarcity in universities, Finance Directors must have the leverage to operate in a way that leads to innovation. This is the position espoused by Kirwan and Zeppos (2015) who observe that regulation can be a barrier to institutional innovation. Finance Directors when unhindered can innovate in several ways including maintaining close relationships and collaborations with stakeholders, providing advisory services, improving reporting and compliance, recommending appropriate budget levels and consulting with management on salaries, program planning, explaining policies to faculty and funding source representatives and vendors and suggesting cost reduction strategies. The regulations can limit the ability of Finance Directors to innovate in these ways.

There is also another provision in the bill on the requirement for approval by the sector minister of contracts which a university may enter into in particular related to properties. Specifically, the bill states that subject to approval by the Minister, in consultation with the Ghana Tertiary Education Commission, a public university may for (a) the purpose of the performance of the functions of the public university, or (b) any purpose which the public university considers necessary, acquire property, sell, lease, mortgage or otherwise alienate or dispose of that property and enter into any other transaction. This will introduce unnecessary bottlenecks in the operations of the university. As Ojo (1990) observes, the autonomy of universities must also encompass the freedom to decide on how it should be managed. The government may, however, find it necessary to interfere in transactions which are international in nature and which have the potential financial implications on the Government of Ghana.

A further look at the bill reveals a reduced role of Alumni on the university council. In effect, this will seriously constrain the contribution of alumni in general towards the development of the universities. The fact that alumni currently contributes immensely to the development of various universities cannot be thrown out. There is enough evidence across many jurisdictions including Ghana that alumni have been very instrumental in the establishment of endowment funds and in setting up scholarship schemes which benefit needy but brilliant students in important ways. Admittedly, it will be prudent to have a representation for alumni on councils so that they can have the avenue to contribute to the governance of universities. Sanyal and Martin (2006) have observed that conventionally, wealthy donors including alumni have represented a significant part of the non-state source of funds for universities. Whilst it must be true that contributions from wealthy donors have also witnessed a decline, it still represents important sources of funding. Across the USA, Canada, and the UK, donations from wealthy donors have still been phenomenal. Shattock (2004) observes that institutions all over the world are looking for alternatives in non-traditional, non-state sources including student fees from overseas students, self-financed students in the dual-track system, and specialised tailor-made programmes, research patents, licences, royalties and profits from retailing through shops. Al-Hamadeen and Alsharairi (2014) observe that commercial operations in some universities represent one of the most important sources of financing. Such universities have effectively ventured into some service-related operations in which it has the expertise, targeting the community and the business sector. It is also reported that some universities in the UK have utilised this strategy of diversification. The University of Loughborough, for instance, presents a good example of how facilities can be rented to the community and the business sector. This includes cafeterias, shops, and library rentals. Taken together, regulations in these domains of issues will constrain the extent to which universities can innovate as far as searching for additional funding is concerned.

Again, the bill also provides for the use of Centralised Applications Processing Service which will be responsible for the processing of applications for admissions for all public universities. Already, sale of forms represents an important source of Internally Generated Funds IGF by public universities in Ghana. The adoption of centralized applications processing would mean a dwindling in the income of universities from the sale of admission forms. As it stands now, IGF also represents a significant part of university financing in Ghana. Sale of application forms represents a sizable portion of IGF meaning the introduction of centralized application will cause a dwindle in proceeds universities receive from application forms.

The regulations also have the potential to increase the compliance costs of universities. This costs could be of various forms including employee effort spent on compliance activities, as well as costs related to software, training, fees and external consultations to maintain or report on all activities.

V. Conclusion and Recommendation

The foregoing analysis leads to the conclusion that the new public university bill has some provisions especially the failure to recognize alumni representation, the subjugation of certain universities decisions by the government through GTEC, constriction of the duties of finance directors to the public statutes, and other related provisions all of which have implications on university financing. Going forward, it will be proper to have a reassessment of the costs and effects of the bill before its promulgation. As a general caution, it must be submitted here that attempts by governments to control universities and the pressures will not wane; for it would be an illusion top assume that government influence on universities is likely to decline in the foreseeable future. Universities must begin to acknowledge the reality that autonomy is gradually becoming a relative thing. Fortunately for universities, most of the sections of the general informed public to acknowledge the need to grant autonomy to universities in their operations. The task, therefore, is to countervail government pressures with criticisms and suggestions taking into consideration their unique environment in which they operate which in essence can lead to some degree of autonomy. This will be generally welcomed by the public. As specific measures, it is recommended that regulators should be concerned much with regulations that promote education, ensure the safety of students and also ensure accountability of state funds. Also, there is a need to ensure that regulations stay clear and well understood with no ambiguities. More so, it will be prudent to always assess the costs and burdens of regulations. As an alternative measure, the government should recognize good faith efforts by public universities. Finally, regulations that lead to compliance challenges should be reviewed.

Suggestions for future research

The analysis carried out in this study was restricted to the assessment of the potential implications of the proposed Public University Bill, 2020 on university financing. Future research should focus attention on the likely impact of the bill on other aspects of universities such as university governance, administration and academic freedom. Such endeavours are much needed to ascertain beforehand a holistic understanding of the impact of the bill on university life as a whole.

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