



EVALUATION OF THE REGULATORY FRAMEWORK AS AN INSTRUMENT OF UNIVERSITY GOVERNANCE IN THE PRIVATE INSTITUTIONS OF HIGHER EDUCATION

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Abstract:

Motivated by the existence in several parts of the country of private institutions of higher education of relative quality and operating outside the regulations, we undertook this study entitled “Evaluation of the Regulatory Framework as an Instrument of University Governance in the Private Institutions of Higher Education” to check whether the regulatory framework in force in Cameroon guarantees quality in the private institutions of higher education. To do this, we opted for an exploratory and mixed approach involving the triangulation of methods, data, and theories. Data were collected from 242 subjects, including students, teachers, private institutions of higher education promoters, and MINESUP officials. The data collected through a semi-structured interview and a questionnaire, processed by the SPSS software and the content analysis, yielded results which indicate that if all the mechanisms for good governance are put in place, the private institutions of higher education will be able to satisfy the quality requirements and the implicit and explicit needs of all their partners.

Keywords: university governance, regulatory framework, quality approach

1. Introduction

The demand for higher education is growing strongly. To accommodate these ever-increasing numbers, higher education systems around the world have diversified. This has led to the development of a post-secondary, non-university sector, a private education sector, and a growing number of distance learning courses. In recent decades, this has led to an expansion of private higher education provision in developing countries. As a result, private higher education is now a full-fledged component of the education system in the same way as public higher education. The expansion of systems calls for a rapid transformation of the institutional framework, training provision, and teaching practices.

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To meet this high demand, Cameroon has set itself the sectoral objective of increasing the supply and quality of training in the Cameroonian education system by 2020. To achieve this, the Government has opted to increase the infrastructure of state universities through the Pro-Act program and the opening of higher education to private initiatives. This led to the promulgation of Law No. 005 of 16 April 2001 on the orientation of higher education and the adoption of a number of implementing texts, including Decree No. 073/CAB/PM of 06 December 2001, which created the National Commission of Private Higher Education, an advisory body to assist the Minister of Higher Education in the establishment, development, monitoring, control, and evaluation of private higher education and related institutions.

2. Problem statement

In Cameroon, the private institution of higher education is expanding exponentially. Current statistics show 415 private institutions of higher education, compared to 174 in late 2015, 149 in 2013, 85 in 2008 and 12 in 2002 (MINESUP, 2022). This expansion is due, on the one hand, to the implementation of a battery of governance instruments for this sector and, on the other hand, to the restructuring of the Brevet de Technicien Supérieur (BTS) and Higher National Diploma (HND) programs in 2017 and 2018.

Faced with this growth in demand and programs offered in the private institutions of higher education and considering the multiple challenges that the State of Cameroon strives to meet in the area of higher education development, it is timely to focus on the quality of these private institutions of higher education when we know that quality assurance *“results from the essence of the university and research to associate the relevance and the efficiency of the system”*. The use of the quality approach is becoming imperative for any higher education governance system. Without quality, the university sinks into mediocrity, if not inanity (Fame Ndong, 2009).

However, observations reveal that the numbering of some IPES is marked by all sorts of discrepancy. In addition to renowned private institutions of higher education, there are private institutions of higher education that function without authorization. Some of which, although authorized, exceed their administrative and academic prerogatives, while others have inadequate infrastructure and a glaring lack of didactic equipment and qualified teachers (Kombou, 2003; Tchého, 2003).

Given these observations, drawn from the reports of inspection missions carried out by MINESUP in the private institutions of higher education and from several authors who have taken an interest in private higher education, including Kombou (2003), Tchého (2003), Ngwé, Pokam, Mandjack and Folefack (2006), it is timely to question the place reserved for quality assurance of university institutions in the laws and regulations of the Republic.

Hence, our research question:

- Does the legal framework put in place in Cameroon guarantee the quality of institutions of private higher education?

Our study aims to verify whether the legal arsenal in force in higher education meets the requirements of university governance and can guarantee the quality of private institutions of higher education. Regarding the definition of concepts involved in our research, we would say that university governance is the set of measures, rules, decision-making, information and supervisory bodies through which the state draws up, implements, monitors and evaluates higher education policy in general and private higher education in particular. This is what we mean by legal framework.

By the quality of private institutions of higher education, we mean all the characteristics of a private institution of higher education that give it the ability to meet the implicit and explicit needs of the university community. The arsenal of provisions and principles mentioned above, established by the supervisory authorities as part of university governance, aims to introduce and maintain quality in the private institutions of higher education. However, it is not easy to combine quality and teaching in a context of intense competitive and commercial pressures, such as that of the private institutions of higher education, with its complex specific realities and varied consequences for the way quality may be held there. To achieve this, MINESUP has introduced a quality management system focusing on implementing and controlling quality.

University governance, as defined above, is, in fact, a quality management system since it covers (as defined in the ISO 9000:2000 standard) all the activities of the management function, which determine quality policy, objectives and responsibilities, through a legal arsenal, and implement them by means such as quality planning, quality control, quality assurance and quality improvement.

As a provisional answer to our research question, and given the laws and regulations in force in private higher education, we say that "*the legal framework put in place in Cameroon guarantees the quality of private higher education institutions*". The operationalisation of our concepts presents the following indicators:

Table 1: Operationalization of variables

Variable	Indicators
VI Legal Framework	The existence of texts on opening and operating procedures and conditions
	The existence of texts on the academic supervision of private institutions of higher education
	The existence of standards, specifications, control and monitoring procedures
	The existence of texts on positive and negative sanctions
VD The Quality of Private Institutions of Higher Education	Administrative functions (authorizations and agreements)
	Infrastructure functionality (existence, accessibility)
	Pedagogical functionality (programmes, teachers, lessons, assessments, success rates)
	Material functionality/didactics equipment's (existence, functionality)

3. Methodological approach

We opted for exploratory research because it seeks to explore the correlation between university governance and the quality of private institutions of higher education, an

empirical approach based on the observation and analysis of field data, and an approach based on data triangulation and methods. We used contrast sampling and a common sense non-probabilistic technique (reasoned choice) to draw our sample of 242 people from the target and accessible population of our study, made up of officials from the central services of MINESUP, promoters, teachers and students from 08 private institutions of higher education, four in Douala and 04 in Yaoundé.

To achieve our research objective, we first analysed documents relating to private higher education, then carried out direct observation, followed by a survey using a questionnaire and individual semi-directive interviews, which enabled us to gather the opinions of those directly involved in private higher education. We combine the interview with the questionnaire because it gives the subjects of the survey free rein to express themselves, thus allowing us to supplement the quantitative information from the questionnaire given to the students with comprehensive and varied qualitative information. The interview guide differed depending on whether we dealt with teachers, promoters or ministry officials.

As far as the conduct of the interviews was concerned, we first carried out a phase known as "purging", using a consent form for individual interviews, in which we presented the project to our interviewee and asked his or her permission to quote him or her, to use the dictaphone (tape recorder) or to keep his or her statements in the archives for future use.

The data was processed using quantitative and qualitative methods. The qualitative method involved transcribing the information contained on the magnetic tapes, reading or re-reading the data, marking the most relevant passages, taking stock of the data and classifying it in such a way as to make it as easy as possible to find. This coding work was done by hand using pen and paper. The final stage involved analysing and interpreting the results. The aim was to corroborate or refute the initial hypothesis or to modify our theoretical conjectures.

The questionnaire was analysed using a microcomputer for the quantitative analysis. The tables thus obtained were analysed using statistics by calculating frequencies.

$$\% = \frac{F}{N} \times 100$$

Where,

F = frequency,

N = simple

Intending to favour the triangular approach that characterises this research, we have combined the percentages and content of the interviews to draw valid conclusions.

4. Presentation of results

Since the aim of our study is to ascertain whether the legal arsenal in force in higher education meets the requirements of university governance and is capable of guaranteeing the quality of private institutions of higher education, we present the results obtained according to the indicators of our variables.

4.1 Existence of texts governing the opening and operation of private institutions of higher education

Regarding whether there are any regulations governing the opening and operation of private institutions of higher education in Cameroon, 81% of respondents answered in the affirmative. Their answers show that a decree, several orders, and even circulars and memos have been issued to regulate this area.

In fact, according to decree no. 2001/832/PM of 19 September 2001 laying down the common rules applicable to private institutions of higher education and order no. 14/0420/MINESUP of 9 July 2014 laying down the conditions for creating and operating a private institution of higher education, amending order no. 01/0096/MINESUP of 07 December 2001, the creation of a private institution of higher education is subject to obtaining prior agreement from the Minister of Higher Education after a favourable opinion from the National Commission for Private Higher Education (CNESP). This agreement specifies, among other things, the name, location, and name of the promoter, and it is valid for a period of 3 years, renewable once. Next comes the authorisation to open. This is granted for each course and training cycle and expires after 2 years if it is not operating. The effective and regular operation of private institutions of higher education may give them access to the accreditation system, which entitles them to open new training courses. Private Institutions of Higher Education are authorised to open, and those approved prepare and present candidates for national examinations in accordance with the regulations in force and/or within the framework of agreements signed with State universities or approved private institutions of higher education. An accredited private institution of higher education may extend its course of study or training cycle or open a new establishment. Approval authorises the private institutions of higher education to award national diplomas and degrees.

Authorisation for the creation, opening and extension of private institutions of higher education, as well as their accreditation and approval, are granted by order of the Minister in charge of Higher Education after a favourable opinion from the CNESP. The organisation and operation of this Commission are set out in Order no. 073/CAB/PM of 06 December 2001. One of the quality assurance requirements for private institutions of higher education is the profile of teachers and managers. This requirement is laid down in order no. 02/0035/MINESUP of 16 April 2002 setting the conditions and procedures for obtaining teaching authorisations, agreements and approvals for positions of responsibility in the private institutions of higher education. It stipulates, among other things, that private institutions of higher education teachers must hold at least a 5-year

degree in the field in which they wish to teach. The teaching staff is made up of permanent and part-time teachers. The latter come from state universities and work under an academic supervision agreement signed between the university and the private institutions of higher education.

A teacher we met during our interviews said, *“Following the law on the orientation of higher education, several regulatory texts were drawn up at the Ministry, containing the objectives of private higher education and some strategies, I believe, but these texts remained at the Ministry, so we don’t know much about them”*.

4.2 Existence of texts relating to the academic supervision of private institutions of higher education

When asked whether there were any regulations governing the academic supervision of private institutions of higher education, 68% of respondents said there were. Our investigations revealed that apart from Article 11 of the law on the orientation of higher education, which stipulates that the State exercises permanent control over compliance with the standards set in all areas of higher education and, therefore, over the activities of public and private higher education institutions, article 49 of decree n°2001/832/PM of 19 September 2001 laying down the standard rules applicable to private higher education institutions stipulates that the supervisory authority exercises permanent academic, administrative and financial monitoring and control over the private institutions of higher education. These are MINESUP, State universities and approved establishments to which the Minister delegates a prerogative to supervise private institutions of higher education in accomplishing their missions.

This prerogative is governed by decree n°17/00260/MINESUP/SG/DAJ/DDES of 28 April 2017 on the regime and organisation of the academic supervision of State Universities or Establishments approved by private institutions of higher education in Cameroon. This decree stipulates that academic supervision is the subject of a contract or agreement binding the parties based on duly signed specifications enforceable against the parties. The aim is to guarantee and strengthen the quality of training in the private institutions of higher education. The tutelary institution (the university) conducts evaluation, monitoring and capacity-building missions for the private institutions of higher education at the rates in force in state universities. Academic supervision can only be provided in areas where the tutelary institution has proven expertise. The courses covered by the agreement must align with those approved when the private institutions of higher education were opened or extended. The tutelary institution is required to produce an annual report for MINESUP on evaluating the execution of the agreement.

The opinion of promoters on this subject is no different. As one promoter said during the interview: *“We already praise the government’s initiative in imposing a partnership between the private institutions of higher education and the more experienced state universities. Through this agreement, we receive pedagogical support, even though these agreements are quite expensive for us financially. Nevertheless, we would like to see direct assistance from the State”*.

4.3 The existence of standards, accreditation criteria, specifications and procedures for controlling and monitoring private institutions of higher education

When asked whether standards, accreditation criteria and specifications had been drawn up, the survey subjects remained sceptical. Only the variable specifications received a score of 62% for the modality "completely false", which means that the promoter's specifications do not exist. The opinions differ for standards and accreditation criteria, with no mode receiving a score equal to or greater than 50%. When the analysis is taken further by aggregating the categories, it emerges that standards do not exist (70%), while accreditation criteria do exist (51%).

Similarly, 77% of respondents felt that monitoring and control procedures and tools did not exist. When the tutelary universities decide to visit the private institutions of higher education, they have no ToRs. They ask a few questions at random and then ask for their envelopes and leave, leaving bewildered managers in their wake. According to them, the audit teams are made up of unqualified people, which makes the working sessions difficult.

One teacher in our interview said: *"I think that if these monitoring and follow-up tools exist, they are not simply used"* According to another, *"These tools do not exist anywhere; adjustments are made incrementally"*. These statements contradict the view of half of teachers who believe that *"the tools have been developed, but the implementation, monitoring, control and sanctions do not follow."*

A MINESUP official says, *"The Decree in its art.51 provided for the development of these procedures by the implementing texts; nothing is done formally yet"*. A promoter added, *"control and monitoring methods and procedures need to be worked out. As the promoters' contact group at MINESUP, we have been asked for our contributions, and we have made our proposals. I even drew up a draft code of university ethics and deontology, which I submitted to MINESUP. We are waiting."*

Another promoter bluntly stated during the interview, *"Serious promoters base themselves on international standards to put something good together, while traders take advantage of them to do anything they want"*.

The absence of standards and specifications suggests that the random nature of private institutions of higher education operations is their main weakness. This would lie in the model requiring much translation and mental gymnastics to enable access to adequate and transparent regulatory mechanisms.

4.4 Existence of texts on sanctions

Of the respondents who answered the question of whether sanctions exist in the governance of private institutions of higher education in Cameroon, 73% answered in the affirmative. The legislation in force informs us that, without prejudice to penal sanctions, the State exercises a power of administrative sanction over private institutions of higher education, administrative managers, academic authorities, teaching staff, students and other staff of institutions of higher education, according to the modalities fixed by regulation.

Thus, article 52 of the Orientation Law and decree no. 2001/832/PM of 19 September 2001 laying down the standard rules applicable to private higher education institutions stipulate that any private institutions of higher education may be placed under receivership, have one or more of its managers suspended, or be temporarily or permanently closed, in accordance with the procedures laid down by the legislation in force. Permanent closure automatically entails the withdrawal of the authorisation to open, the approval and the certification. Penalties for closure are imposed after formal notice has been given to the promoter of the institution concerned, who may provide an explanation within the time allowed (art. 68).

Also, without prejudice to the above measures, promoters who are guilty of opening private institutions of higher education without prior authorisation; maintaining in operation a private institution of higher education that has been provisionally or definitively closed; closing private institutions of higher education during the academic year without the express prior authorisation of the competent administrative authority; awarding diplomas, degrees and titles in violation of the Education Act and it is implementing regulations, are liable to the penalties provided for in article 124 of the Criminal Code.

From this first criterion, relating to the existence of regulations governing the opening, operation, monitoring and control of private institutions of higher education, we can see that such regulations have indeed been introduced, even if they are not complete. There are still some grey areas. Several application texts are still awaited. As a MINESUP department head said, *"Something has been done. The framework is not rigorous, but it is sufficient to function if there is good faith"*.

In all, one guideline law, one decree and several orders have been cited as being capable of guaranteeing the quality of private institutions of higher education if they are implemented.

4.5 Application of the texts governing private institutions of higher education

Regarding whether the current implementation of the texts governing the operation of private institutions of higher education guarantees the quality of private institutions of higher education, 81% of respondents replied "disagree". They believe that it is this failure to comply with the texts that explain why some clandestine private institutions of higher education are being set up in our towns without concern, why some private institutions of higher education are opening training courses without authorisation even though they are authorised to do so, why some private institutions of higher education are issuing diplomas in contravention of the regulations, and why other institutions have unqualified teachers and unauthorised managers.

According to a teacher we interviewed at the Siantou University Institute, some quality standards and criteria have been defined, such as teacher qualifications. It is their application that is lacking. The supervisory authorities are lax. For example, when we ask MINESUP to issue teaching authorisations to private institutions of higher education

teachers, and this is not done, why don't you want us to find holders of BAC +3 teaching in the BTS cycles? Who should put things in order?

“Important regulatory texts on private higher education have been drawn up since the promulgation of the law on the orientation of higher education in 2001. Where are these texts? What has been done with them? Do you think they are being applied? The good reference frameworks and the appropriate agreements to which you refer will remain engraved on paper and filed away in drawers. The main problem, as I keep saying, is not the drafting of texts or programmes. The problem is the actions of people. If the authorities and the promoters worked in good faith, things would be better even with the current texts” (A MINESUP inspector).

5. Discussion of results

Opening higher education to private initiative and, above all, implementing a quality approach at this level of education is a complex operation. It can be very interesting if it is well organised, planned and controlled, but it can also become a nightmare if too much room is left for improvisation and chance. It was with this adage, borrowed from Collettere, Delisle and Perron (2008) that we began our research, the aim of which was to examine whether current university governance guarantees the quality of private higher education institutions in Cameroon. To do this, we assessed the legal framework.

The results tell us that the legislative and regulatory framework is well and truly in place. We reviewed the laws, the penal code, the decrees and orders relating to the opening, operation, monitoring-evaluation and control of private institutions of higher education. However, particular areas, such as standards, promoters' specifications, objective accreditation criteria, control and monitoring procedures and tools directly linked to the quality approach, are lacking.

Concern for quality is not always translated into action: the gap between the good intentions of regulatory texts and actual experience can sometimes be considerable. In fact, this is the case in many cases: we talk about the failings of a system illustrated by a somewhat rigorous assessment of the situation (Tchého, 2003).

As Collettere and Deslile (2008) put it so well, too much room has been left for improvisation and chance. Quality management in private institutions of higher education has turned into a nightmare, hence the existence of institutions of poor quality alongside the renowned private institutions of higher education.

5.1 Proposals and recommendations

To improve the management of private institutions of higher education and promote quality in these institutions, we are making several recommendations to the supervisory authorities and promoters.

5.1.1 Proposals to the government

5.1.1.1 At institutional level

We recommend that regulatory texts on the quality of private institutions of higher education be drawn up, that the National Commission for Private Higher Education be reorganised, that the Sub-Directorate for Private Higher Education be made a Secretariat of State, and that capacity-building in the culture of quality be strengthened.

5.1.1.2 From an educational point of view

We suggest that the authorities step up the pace of the overhaul of training programmes to make them more professional and bring them into line with the LMD system; that they organise a specific review of the management of national examinations, in this case, the BTS and HND, most of which are sat by private institutions of higher education students. This reflection could confirm or refute the relevance of suggestions made some time ago concerning the establishment of an Office for Examinations and Competitions in Higher Education (OECS), a superstructure which, together with the revamped Inspectorate General for Academic Affairs, would form a genuine national observatory of academic quality.

5.1.1.3 On a managerial level

The supervisory authority will have to enter a performance contract with each private institution of higher education, whereby the institution undertakes to take all the regulatory, financial and managerial measures necessary to include the quality approach as a primary management objective. Each private institution of higher education will take the necessary steps to achieve the visibility essential to the quality approach, the criteria for which will be defined by the committee responsible for drawing up quality standards.

Establishments that have achieved a reasonable level of visibility and have complied with the specifications laid down by the accreditation body should receive the MINESUP label and a substantial subsidy, a unique distinction, a kind of bonus for excellence awarded directly by the Minister to support the activity of these Establishments. By analogy with the hotel structures of the Ministry of Tourism, the Ministry of Higher Education will be able to align itself with the hotel classification system based on the star system.

5.2 Recommendations for private institutions of higher education promoters

Intending to promote quality in the private institutions of higher education, we suggest that promoters set up a reference system for internal quality procedures and a code of ethics binding on all promoters, involve private-sector partners in defining, developing and implementing training courses, and update programmes to meet the needs and requirements of the national economy on an ongoing basis; to promote and encourage the upgrading of teachers and trainers in order to ensure excellence and quality, to encourage the creation and development of associations of former graduates for accurate monitoring of their professional integration, to organise themselves into an association

of private institutions of higher education promoters to share their experiences and raise their grievances with the authorities.

6. Conclusion

Based on the observation that alongside the internationally renowned private higher education institutions, there are those that operate outside the regulations, we undertook this study, which enabled us to answer the question of whether the university governance put in place in Cameroon guarantees the quality of the private institutions of higher education. In addition to a documentary analysis, we conducted a survey of MINESUP officials and eight private institutions of higher education. We interviewed senior MINESUP officials, promoters, teachers and students.

At the end of this study and in light of all the above, it is clear that a legal arsenal consisting of laws, decrees, and orders has been put in place to guarantee the quality of private higher education institutions in Cameroon. However, this objective has not been fully achieved because certain areas directly related to quality management are not regulated.

These results corroborate the view of Collerette, Delisle and Perron (2008), who state that"

"The management of an organisation undergoing change is a complex operation, which can be very rewarding if it is well controlled, but which can also turn into a nightmare if too much room is left for improvisation, and that of Callon and Latour (1991) who stipulate, in the theory of translation, that the success or failure of an innovative project or reform does not depend on intrinsic characteristics, but on a network capable of linking together heterogeneous 'actors'. Too much room has been left for improvisation and chance. Quality management in the private institutions of higher education is turning into a nightmare. There is, however, some hope: the situation we have examined and the failures we have observed are the result of policy law no. 005 of 16 April 2001 and its implementing regulations. A new guideline law has just been promulgated, law no. 2023/007 of 25 July 2023, which introduces as a special feature and innovation in the ESUP sector the hierarchisation of private institutions of higher education. From now on, each private institution of higher education will have to do its utmost to maintain its grade or to move up to the next grade, otherwise, it will be demoted.

Our hope lies in the implementing regulations for this new law, which are currently being drafted by MINESUP. In terms of compliance with the regulations in force, these texts should provide for control brigades, who will be given all the necessary means to achieve the objectives assigned to them. In addition to these forthcoming texts, we have made a number of suggestions to the supervisory authorities and promoters in this study. Suggestions relating to administrative, academic, managerial and

infrastructural governance to enhance the quality approach in Cameroon's private institutions of higher education.

Conflict of Interest Statement

The authors declare no conflicts of interest.

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