

A Review of the Multiple Regulatory Regime in Tertiary Education in Ghana

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Abstract

Ghana like many other African countries has had more than one agency regulating its tertiary education sector. Thus, in that multiple regulatory environment, different regulatory institutions were responsible for policy and funding, accreditation and regulation of aspects of vocational and technical education. Consequently, the regulatory environment comprised agencies with overlapping mandates which tertiary education institutions were required to respond to, whether to commence operations or mount new programmes. The challenges in this arrangement included duplication of functions, high cost of education, and in the main, inefficiency and ineffectiveness in the regulation and management of tertiary education. The Education Regulatory Bodies Act, 2020 (Act 1023) was enacted in Ghana as part of reforms to the education sector in 2020. This legislation merged the erstwhile National Council for Tertiary Education and the National Accreditation Board to form the Ghana Tertiary Education Commission, as well as the merger of the Council for Technical and Vocational Education and Training and the National Board for Professional and Technician Examinations to form the Commission for Technical and Vocational Education and Training. This paper discusses the state of affairs regarding the multiple regulations of tertiary education in Ghana prior to the mergers and the future of tertiary education regulation in Ghana in the light of reforms in tertiary education regulation and the regulatory practices in selected African countries.

Introduction

Sub-Saharan African countries have established various bodies to regulate tertiary education systems since the mid-1980s (Kasozi, 2014). These regulatory bodies may serve as buffer bodies to obviate direct government control of tertiary education institutions, or charged with policy development and implementation, conflict mediation, performance monitoring, and accountability in tertiary education (Saint, 2014). They coordinate various aspects of the tertiary education system including: “the efficient allocation of funds and other resources; policy and planning for the development of the tertiary sector, often in relation to national development objectives, and the

information and expertise such policy development and planning requires; uniformity across academic programmes and between institutions locally and abroad; and managing the increasingly important relationships between key tertiary education stakeholders (in particular, government, institutions, professions, market and industry) roles” (Bailey, 2015).

Different regulatory models for tertiary education exist in African countries. Most Francophone African countries have supervising government ministries for tertiary education. Nigeria and Uganda have different regulatory bodies for Universities, Colleges of Education and the Polytechnics or Colleges of Technology sub-sectors. In *Namibia*, the Council for Higher Education and the Namibian Qualifications Authority have been established to regulate different aspects of tertiary education. The Human Resource Development Council and the Botswana Qualifications Authority are the two main bodies responsible for the regulation of tertiary education in Botswana.

The regulatory framework of tertiary education in Ghana comprised the National Council for Tertiary Education, the National Board for Professional and Technician Examinations and the National Accreditation Board. Thus, Ghana had multiple regulatory regimes for tertiary education. Apart from the above-mentioned statutory tertiary education regulatory bodies, bodies that regulate the professions in Ghana such as the General Legal Council, the Medical and Dental Council, and the Pharmacy Council are also mandated to regulate some aspects of tertiary education.

The foregoing points to the fact that the higher education system in Ghana as elsewhere “was characterised by a multiplicity of regulatory influences that together form its regulatory regime”; thus higher education providers are regulated in ways that may be described as complex and multi-faceted” (Higher Education Commission, 2013). There are several challenges that are inherent in the multiple regulatory regime. There is the tendency for multiple regulatory regimes to have institutions with overlapping regulatory mandates. Complaints regarding encroachment on mandates and “turf protection” among regulatory bodies in a regulatory framework cannot be ruled out (NCTE, 2012). Additionally, the effectiveness of the regulatory regime could be adversely affected if the regulatory bodies fail to cooperate (Blackmur, 2007). That is, if each regulator attempts to optimise in terms of its own goals and fails to take account of interaction effects and necessary trade-off which may undermine sub-optimisation (Blackmur, 2007). This

risk of non-cooperation could be exacerbated by the lack of legislation that prescribes the manner and the areas in which different bodies involved in the regulation of tertiary institutions should cooperate.

A regulatory regime with multiple regulatory requirements may engender lengthy regulatory processes which may impede efforts of providers — public and private — to mount innovative programmes in real time to produce human capital to meet emerging trends in the industry. Industry and society become the ultimate losers from inefficiencies in the production processes resulting from lack of labour with novel skills. Without doubt, multiple regulation raises the cost of tertiary education. These costs may be drawn against the public purse, borne by students or possibly met in part through foregoing investments in the core activities of tertiary education institutions — teaching and learning and research. Higher regulatory costs may have implications for access to tertiary education and opportunity costs. Increases in costs may result in increment in fees by tertiary education institutions which may adversely affect enrollments and ultimately compromise equity (Blackmur, 2007). Besides, increases in public expenditure on tertiary education means that funds would not be available to be expended on basic education and related areas (Blackmur, 2007).

Multiple regulatory regimes with multiple requirements could frustrate the entry of new providers and/or the mounting of new programmes, and thus protect existing providers from competition (CMA, 2015). Cumbersome regulatory processes could frustrate expansion of available programmes; and diminish opportunities for education and training available to students. “Ultimately, students could suffer due to higher prices, less choice or a poorer learning experience that would not have been the case without regulation” (CMA, 2015).

The Objective

The objective of this work is to discuss the overlaps and conflicts in the mandates of the various regulatory bodies that existed in tertiary education in Ghana; assess the main issues and challenges in the current regulatory framework, and develop conclusions informed by experiences in other parts of Africa. It is guided by the following questions:

- *What were the overlaps in the enabling legislations of tertiary education institutions;*

- *How did statutory regulatory bodies collaborate to regulate the tertiary education sector;*
- *How do regulatory bodies collaborate with professional regulatory bodies and tertiary education institutions; and*
- *What are the tertiary education regulatory frameworks in other countries in Africa and what could be learned from them?*

This work is a qualitative analysis of the mandates and practices of institutions charged with the regulation of tertiary education in Ghana. It is hinged on legislative enactments on regulatory bodies and reports produced by statutory regulatory bodies. Discussions were held with the Chairman and members of the National Council for Tertiary Education, the President of the Conference of Heads of Private Universities and the Executive Secretaries, Deputy Executive Secretaries and senior officers of the National Council for Tertiary Education and the National Accreditation Board. Additionally, discussions were held with senior officers of the National Board for Professional and Technician Examinations. This work is also informed by the author's observation of the tertiary education sector in Ghana for nearly two decades.

THEORETICAL AND CONCEPTUAL CONSIDERATIONS

Rationale of State Regulation of Higher Education

There are several considerations for state regulation of tertiary education. Nations continue to grapple with challenges such as the need to expand coverage of tertiary education, inequities in access, quality outcomes and relevance, and unresponsive governance and management practices (World Bank, 2002). There are also economic considerations. The World Bank (2002) states that "tertiary education exercises a direct influence on national productivity which largely determines living standards and a country's ability to compete in the global economy". Thus, there is a need for institutions to be more relevant and accountable in terms of outputs and outcomes (Newman, 2011). Tertiary education institutions should contribute to the production and dissemination of relevant knowledge and be responsive to the socio-economic challenges facing society. Governments should also promote access of needy students who have demonstrated capacities for advanced learning and address past inequalities (Blackmur, 2007).

The expansion in state subsidies to tertiary institutions has been accompanied by strident calls for accountability. The concept of accountability brings to mind answerability for the use of public funds; and responsiveness to the needs of society. Regulation is thus meant to ensure proper oversight and management of public funds. Kearns (1998), notes that accountability obliges educational institutions to acknowledge a higher public trust, which ultimately is the source of their authority and credibility. It entails the provision of information on performance to stakeholders and the measurement of performance of higher education institutions (Barneston, 1999).

The need to protect the reputation of a higher education system may prompt state regulation of higher education (CMA, 2015; Blackmur, 2007). An institution may engage in activities that diminish its reputation and, the resultant effects would affect the reputation of the entire higher education system and impact negatively on their stakeholders — staff, students, and graduates (Blackmur, 2007). Blackmur (2007), states that when governments regulate matters of higher education, they are, explicitly or implicitly, thinking in terms of standards concerning some or all characteristics of the system (or its components) against which assurance of adequate performance is subsequently sought. In this regard, regulation is to ensure that quality and standards remain high and that the institutions put in place measures to define and sustain high quality and standards.

Regulation Defined

Generally, regulation relates to the laws, directives, and policies developed for the oversight of a particular sector by a governmental authority. Jackson (1997) states that a regulatory regime (in higher education) is based on explicit “rules”, that is, principles, formal requirements, procedures, specifications, standards, charters, codes of practice or best practice guidelines and frameworks for external quality review. It is also influenced by implicit “unwritten rules” which are embedded in the accepted norms of behaviour, values, standards, traditions, and conventions in regulation standards for behaviour are set, and decisions on sanctions are taken by arm-length, relatively independent from government and from the whim of the electorate (Jackson, 1997).

Self Regulation, Co-Regulation and External Regulation

Jackson (1997) distinguishes three types of regulation in higher education:

These are institutional self-regulation, external regulation, and collaborative regulation. In the institutional self-regulation approach, the activities and actions of a higher education institution are not subject to external regulatory controls. Regarding external regulation, the principles, rules, expectations, and conditions that define the scope and nature of regulation are determined by a regulatory authority that is independent of the higher education institutions and these requirements must be satisfied for the higher education provider to operate (Jackson, 1997). Finally, Jackson (1997) states that in the mixed or collaborative regulation approach, the principles, rules, expectations, and conditions, which define the scope and nature of regulations are partly imposed and partly determined through processes of negotiations between the various components of the regulatory structure. In collaborative regulation, regulatory bodies representing the state, and tertiary education institutions collaborate in the development and implementation of the regulatory processes.

Single and Multiple Regulatory Bodies

Higher education institutions may be regulated by a single regulator (single regulatory body) or multiple regulatory bodies. There are advantages and disadvantages associated with both mechanisms. A single regulatory body makes for easy cooperation among operational units. In this regard, the decision-making process may be unified and policy implementation is expedited, as the whole process is controlled by one body (NCTE, 2014). Consequently, duplication of functions, “turf wars” and costs associated with multiple regulatory bodies may be avoided. There may be only one channel for advising the government on the development of tertiary education. This may prevent the provision of conflicting advice from several regulatory bodies to Government. However, there is a tendency of the agency to become too large and unwieldy and thus marginalise some of its constituents (NCTE, 2014).

In multiple regulatory environments, the creation of a large unwieldy body that has too many functions to be effective is avoided. Multiple regulatory environments may foster specialisation among different agencies and facilitate effectiveness in the operations of their different areas (NCTE, 2014). However, contradictory regulation may be the result if one or all the characteristics and standards defined are assumed by several agencies (Blackmur, 2007). Each regulator may optimise in terms of its own goals

but such a process may fail to take account of interaction effects and necessary trade-off which may lead to the risk of sub-optimisation (Blackmur, 2007).

TERTIARY EDUCATION REGULATORY BODIES IN AFRICA

There are different models for regulation and supervision of tertiary education in Africa. The higher education systems in most French-speaking countries in Africa are regulated by separate ministries of higher education (Saint *et al*, 2009). These countries have **established** the *Conseil Africain et Malgache pour l'Enseignement Supérieur (CAMES)* to, among others, harmonise recognition and equivalence of awards among member nations. CAMES is also responsible for accrediting private universities as well as selected number of professional programmes (Saint, 2009).

CAMES coordinates the higher education and research systems in nineteen countries in Francophone Africa, in order to harmonise higher education and research in Africa. The organisation (CAMES) accredits bachelor's, master's and doctoral degrees of higher education institutions and evaluates the professor-researchers of the member countries (www.hauniversity.org/en/CAMES/shtml).

In Nigeria, universities, Polytechnics and Colleges of Education are regulated by the National Universities Commission (NUC), the National Board for Technical Education (NBTE) and the National Commission for Colleges of Education (NCCE), respectively. The NUC is responsible for granting approval for the establishment of universities and the mounting of all programmes in Nigerian universities. The Commission oversees quality assurance regarding all academic programmes offered in Nigerian universities (Government of Nigeria, 1993).

The NCCE is responsible for the accreditation of all Colleges of Education in Nigeria, as well as the certification of the products of the Colleges and other awards with prior approval from the Minister of Education (Government of Nigeria, 1993). **The Commission advises the Federal Government of Nigeria on all aspects of teacher education** offered in Colleges of Education.

The NBTE regulates non-university technical and vocational education including polytechnics in Nigeria. The Board advises the Federal Government of Nigeria on all aspects of technical and vocational education outside the universities. The Commission has remit for national policy on technical and

vocational education; accreditation of programmes and the establishment and maintenance of minimum standards in polytechnics and colleges of technology (Government of Nigeria, 1993).

In Uganda, the National Council for Higher Education, the Department of Teacher Education and the Business, Technical, Vocational Education and Training (BTVET) are responsible for regulation and supervision of tertiary education in Uganda. The National Council for Higher Education (NCHE) is responsible for regulating higher (universities) education institutions. The Council advises the government on policy and other matters relating to university education. NCHE's core functions include the establishment and accreditation of public and private institutions of higher education; ensuring minimum standards for courses of study and the equivalence of degrees, diplomas and certificates awarded by public and private institutions (Government of Uganda, 2006). The Council is also responsible for setting and coordinating national standards for admission of students to higher education institutions (Government of Uganda, 2006). The Department of Teacher Education has oversight for teacher education colleges. The DTE articulates the policies, processes appointments and supervises the administration of Colleges and teacher professional development programmes. The BTVET is responsible for regulating technical tertiary institutions — Health training institutions, colleges of commerce, and technical colleges (Government of Uganda, 2008).

In Namibia, the Minister for Education is responsible for determining the national policy on higher education and the co-ordination and supervision of the higher education system. The Council for Higher Education and the Namibian Qualifications Authority (NQA) are responsible for some aspects of tertiary education. The functions of the NCHE are to accredit, with the concurrence of the NQA, programmes of higher education provided at higher education institutions; and quality monitoring in higher education institutions, among others (Government of Namibia, 1996). The Council advises the Minister of Education on the structure of the higher education system; quality promotion and quality assurance and the allocation of public funds to higher education institutions (Government of Namibia, 2008).

The Namibian Qualifications Authority is responsible for accrediting entities providing education and courses of instruction or training. The Authority has the remit for setting the national qualifications framework; and occupational standards for positions in any career structure. The authority is also responsible for the setting of curriculum standards for achieving the

occupational standards in a given career structure (Government of Namibia, 2008).

The Federal Ministry of Education is mandated to supervise and regulate the higher education sector in Ethiopia — public and private. Other bodies that have remit for tertiary education are the Education Relevance and Quality Agency and the Higher Education Strategy Centre (Government of Ethiopia, 2019). The Ministry of education's overwhelming mandate in higher education includes ensuring the implementation of the national policy and strategy on higher education; and approving and ensuring the implementation of strategic plans of public institutions. The Minister is responsible for determining the criteria and procedures for public funding of institutions. The Minister has remit for determining the requirements for Bachelor, Master, Medical Specialty, and Doctoral programmes (Government of Ethiopia, 2019). The Minister is also responsible for the preparation and delivery of the curricula of higher education. The Minister is mandated to specify the minimum national quality standards in higher education and to provide technical support for internal quality assurance and enhancement systems of institutions (Government of Ethiopia, 2019).

The Higher Education Strategy Centre is mandated to prepare national strategies and plans for the development of higher education and institutions and research (Government of Ethiopia, 2019). The centre is also expected to ensure that institution level planning and strategy are in line with the national development plans and higher education plan and strategy. The centre has the remit to develop proposals on block grant budget allocations to individual public institutions, and monitor the implementation of the same (Government of Ethiopia, 2019). The centre is responsible for collecting, publishing and disseminating data on higher education. It is also responsible for advising the Minister of Education on ways to ensure efficient higher education governance, leadership and management (Government of Ethiopia, 2019).

The responsibility of the Education Relevance and Quality Agency includes accreditation, quality assurance of local and foreign institutions and equivalence of qualifications in higher education. The Agency advises the Minister of Education on mergers, division, closure or change of names of institutions (Government of Ethiopia, 2019).

The Human Resource Development Council and the Botswana Qualifications Authority are the two main bodies responsible for the regulation of tertiary education in Botswana. The Human Resource Development Council is an independent statutory body responsible for national human

resource development in Botswana. The Council has planning, coordination, implementation, advisory and funding responsibilities. It is (the Council) mandated to supervise and coordinate the implementation of the National Human Resource Strategy and ensure a link between the different levels of education, training and skills development (Government of Botswana, 2013). Additionally, the Council is mandated to plan and advise on tertiary education financing and workplace learning; co-ordinate, promote and support tertiary education-industry link in research and innovation activities; and develop strategies for students' internships and skills development. The Council is also mandated to promote the establishment, coordination and approval of institutional plans for public and private institutions and post implementation monitoring and evaluation with specific reference to research and innovation and institutional capacity building, among others (Government of Botswana, 2013).

The Botswana Qualifications Authority is mandated to provide for and maintain a national credit and qualifications framework and to co-ordinate the education, training and skills development; and quality assurance system (Government of Botswana, 2013). The Authority is responsible for all qualifications, from early childhood to tertiary level. The authority has the remit for the registration and accreditation of education and training providers, learning programmes, assessors, awarding bodies and moderators' development (Government of Botswana, 2013). It is responsible for developing and reviewing quality standards, and ensuring compliance through a monitoring and evaluation system. The authority's wide ranging powers include the designing of qualifications and curricula for general and tertiary education, as well as the setting of criteria for the development of national education and training quality and inspection standards development (Government of Botswana, 2013).

EVOLUTION OF EXTERNAL REGULATION IN TERTIARY EDUCATION IN GHANA

Two events partly account for the multiple regulatory framework for tertiary education in Ghana. One, in the late 1980s, the Provisional National Defence Council (PNDC) Government initiated reforms to the tertiary education sector with the establishment of two Committees (The University Rationalisation Committee and the Polytechnic Study Committee) to make recommendations for reforms to the tertiary education system. After the two Committees had presented their reports, the Government published a

White Paper on the Reforms to Tertiary Education System in 1990, which provided for the establishment of an Education Commission “to advise Government on the formulation of policies on the totality of the national education system and be available to tertiary institutions for consultation and advice, and make representation to the government through the Ministry of Education on education as, it sees fit”. The Commission was also expected to maintain a continuous dialogue with the Government, tertiary institutions, and the private sector (GoG, 1990).

The White Paper also provides for the establishment of the following bodies:

- Joint Admission and Matriculation Board
- Board for Accreditation
- Board for Professional and Technical Examinations; and
- National Teaching Council

The other event was the promulgation of the 1992 Constitution of Ghana which provides for the appointment of a Commission for tertiary education. Article 70(1)(d)(iv) of the Constitution of Ghana states that: “The President shall, acting in consultation with the Council of State appoint a National Council for Higher Education howsoever described”. However, in the early 1990s, three bodies were established to regulate the tertiary education sub-sector. The National Council for Tertiary Education in Ghana was established by the NCTE Act, 1993 (Act 454). The National Accreditation Board Law (PNDCL 317), was promulgated in 1993 whilst the National Board for Professional and Technician Examinations was established by the NABPTEX Act, 1994 (Act 492).

Apart from the above-named regulatory bodies, the Council for Technical and Vocational Education and Training was established in 2006 by the COTVET Act, 2006 (Act 718), to co-ordinate and oversee all aspects of technical and vocational education and training. Additionally, legislations have been enacted to empower statutory bodies such as the Medical and Dental Council, the Engineering Council, Pharmacy Council, and the General Legal Council to regulate aspects of tertiary education.

MANDATES OF TERTIARY EDUCATION REGULATORY BODIES

In this section, the mandates of different bodies with regulatory functions in tertiary education in Ghana are discussed. These bodies are statutory tertiary

education regulatory bodies — The National Council for Tertiary Education, the National Accreditation Board, the National Board for Professional and Technician Examinations, and the Council for Technical and Vocational Education and Training. And statutory regulatory bodies of selected professions — The Engineering Council, the Medical and Dental Council and the General Legal Council.

STATUTORY TERTIARY EDUCATION REGULATORY BODIES

The National Council for Tertiary Education

The National Council for Tertiary Education Act, 1993 (Act 454) mandated the NCTE to oversee the proper administration of institutions of tertiary education. The Council was expected to advise the Minister of Education on the development of tertiary education and the financial needs of the institutions designated as tertiary institutions. In this regard, the Council was expected to recommend to the Minister for the preparation of the annual national education budget: block allocations of funds towards running costs; and grants towards the capital expenditure of each institution of tertiary education, indicating how the allocations are to be disbursed (GoG, 1993).

The Council was also expected to recommend national standards and norms, including standards and norms on staff, costs, accommodation, and time utilisation, for the approval of the Minister and to monitor the implementation of any approved national standards and norms by the institutions (GoG, 1993). Additionally, the Council was mandated to publish information on developments in tertiary education; and to collect and submit to the Minister of Education annual financial reports of tertiary education institutions (GoG, 1993).

The National Accreditation Board

The National Accreditation Board was responsible for determining the programmes and requirements for the proper operation of an institution and the maintenance of acceptable levels of academic or professional standards in the institution in consultation with that institution (GoG, 2007). The Board was responsible for determining the equivalences of diplomas, certificates and other qualifications awarded by institutions in the country or elsewhere. It was expected to publish the list of accredited public and private institutions and programmes at the beginning of each calendar year; and

advise the President on the grant of a Charter to a private tertiary institution (GoG, 2007).

Legislative Instrument 1984 (LI 1984) mandated the Board to prepare and publish in the gazette standards to govern the performance, operation and general conduct of institutions: These standards included: The minimum entry requirements for admission to any certificate, diploma or degree programme being or to be offered by the institution; the minimum number and duration of programmes at the certificate, diploma or degree levels that ought to be offered; and the acceptable student-staff ratio for effective teaching and learning (GoG, 2010).

The Board was also mandated to publish standards of proficiency assessed in terms of content and contact hours which students are expected to attain in respect of a certificate, diploma or degree; the level of academic training required of teaching staff of the institution at the certificate, diploma or degree level; detailed specifications on space requirements and relevant services for each class and for the absolute number of students expected to be enrolled in, or activity to be carried out in the institution (GoG, 2010).

The National Board for Professional and Technician Examinations

The National Board for Professional and Technician Examinations, established by Act 492, was responsible for providing administrative and structural facilities and expertise for the organisation and conduct of professional and technician examinations. It was mandated to, in consultation with the relevant polytechnics and professional institutions, conduct examinations and award national certificates and diplomas based on the result of the examination (GoG, 1994).

The Board was also mandated to review syllabus for general curriculum enrichment; appoint examiners and moderators and determine methods for the proper conduct of examinations, and make regulations to govern its examinations and awards, devise a scheme for testing skills for competence, and testing aptitude (GoG, 1994).

The Council for Technical and Vocational Education and Training

The Council for Technical and Vocational Education and Training was established by Act 718. The Council was mandated to advise Government on all matters related to the management and improvement of the technical

and vocational education and training system and formulate national policies for skills development across the broad spectrum of pre-tertiary and tertiary education, formal, informal and non-formal.

The Council was responsible for coordinating, harmonising, and supervising the activities of private and public providers of technical and vocational education and training, including the informal sector. The Council was also expected to rationalise the assessment and certification system in technical and vocational education and training, and maintain a national database on technical, vocational education and training.

Additionally, the Council was mandated to facilitate collaboration between training providers and industry and with international agencies and development partners and source funding to support technical and vocational education and training activities.

STATUTORY REGULATORY BODIES OF SELECTED PROFESSIONS

The Engineering Council

The Engineering Council Act, 2011 (Act 819) mandates the Council to register engineering educational units and programmes, determine the content of engineering programmes, and undertake inspection visits to engineering departments of educational units. Section 24 of Act 819 states that “an engineering educational unit of an institution shall not offer engineering education or hold itself out as a unit that offers engineering education unless the unit has satisfied requirements and standards prescribed by the Council and approved by the National Accreditation Board”. Additionally, section 26(2)(a) of the Engineering Council Act provides that “the Council shall determine the minimum content of engineering education programmes required for the initial registration of engineering practitioners”.

In furtherance of its objectives, the Council is expected to collaborate with the National Accreditation Board and other relevant bodies to ensure that the minimum educational requirements are satisfied (GoG, 2011).

The Medical and Dental Council

Sections 26 and 27 of the Health Professions Regulatory Act, 2013 (Act 857) provides that the Medical and Dental Council is to “secure in the public interest the highest standards in the training and practice of medicine

and dentistry”. The Council is mandated to assess the facilities and contents of programmes for the training of doctors and dentists, and physician assistants in training institutions. The Council is also mandated to ensure that the pre-registration training of newly qualified doctors and dentists and physician assistants in accredited training institutions meets the required standards.

The General Legal Council

Sections 13 and 14 of the Legal Profession Act, 1960 (Act 32) (as amended) provides that the General Legal Council “may, by legislative instrument, with the approval of the Minister make regulations concerning all matters connected with legal education and, in particular, concerning the conduct of examinations, among others”. The Act also provides that it shall be the duty of the General Legal Council to make arrangements for Establishing a system of legal education in Ghana; selection of the subjects in which those seeking to qualify as lawyers are to be examined, and the establishment of courses of instruction for students.

ISSUES IN MULTIPLE REGULATION OF TERTIARY EDUCATION IN GHANA

Overlaps in the Enabling Legislations of Tertiary Education Institutions

The National Council for Tertiary Education Act, 1993 (Act 454) mandated the Council to advise the Minister of Education on the development of institutions of tertiary education. However, the NCTE was not the sole body mandated to advise the Government on tertiary education. The Council for Technical and Vocational Education and Training was also mandated by its enabling Act to advise the Government on all matters related to the formulation of policies across pre-tertiary and tertiary education. Additionally, the National Accreditation Board was mandated to advise the President on the grant of Charter to private tertiary institutions.

Another issue was the body responsible for the development of standards and norms. The NCTE was mandated by the National Council for Tertiary Education Act, 1993 (Act 454) to recommend for the approval of the Minister of Education standards and norms on staff, costs, accommodation, and time utilisation for the approval by the Minister of

Table 1: Summary of Mandates and Areas of Interest of External Regulatory Bodies

<i>Regulatory Bodies</i>	<i>Mandates</i>	<i>Areas of Interest</i>
NCTE	Advising the Minister of Education on development of tertiary education. Development of standards and norms. Financing of tertiary education. Publication of information on tertiary education.	Development of institutions of higher education. Efficiency and economy in the management of higher education. Relevance of tertiary education.
NAB	Accreditation of tertiary education institutions. Determining equivalences of awards. Development of standards. Advise on provision of charter to private institutions.	Quality tertiary education.
NABPTEX	Conduct of professional and technician examinations. Award of certificates and diplomas. Review syllabuses for general curriculum enrichment.	Acquisition of skill competences by professionals and technicians.
COIVET	Advising Government on development of vocational and technical education. Coordinating, harmonizing, and supervising vocational and technical education. Assessment and certification in vocational and technical education.	Acquisition of skill competences by professionals and technicians. Development and application of competency-based assessment and evaluation.
Professions Regulatory Bodies	Registration of institutions. Determination of the content of programmes. Development of standards. Quality assessments.	Relevant training for entry to a profession. Assurance of competence of persons wishing to practise a profession.

Education. Thus, the NCTE has developed standards on costs, student/teacher ratios, and accommodation. The Council has also developed minimum entry requirements for admission to tertiary education institutions.

The National Accreditation Board was also mandated by the Legislative Instrument 1984 to prepare and publish in a gazette, standards to govern the performance, operation, and general conduct of tertiary institutions. These standards included the acceptable student-staff ratio for effective teaching and learning; the standards of proficiency assessed in terms of content and contact hours which students are expected to attain in respect of a certificate, diploma, or degree levels and the minimum entry requirements for admission to tertiary education institutions. Apart from the NCTE and NAB, the enabling legislation of public universities and certain professional bodies empower them to regulate the admission of students (GoG, 2010; GoG, 1960). This means multiple regulatory bodies were mandated to provide standards for the regulation of tertiary education.

The National Accreditation Board was responsible for accrediting both private and public institutions and their programmes. However, the NCTE came up with an administrative process whereby public institutions had to seek approval for their new programmes before they proceeded to the NAB for programme accreditation. This process was to ensure that the proposed programme was within the mandate of the institution and national development objectives, and that public funds should be expended on the programme by the state.

The mandate to accredit institutions and programmes was not limited to the National Accreditation Board only. Some professional regulatory bodies have been mandated to accredit institutions and programmes. The Engineering Council Act, 2011 (Act 819) mandates the Engineering Council to register engineering educational units and programmes; determine the content of engineering programmes and undertake inspection visits to engineering departments of educational units. The Legal Professions Act, 1960 (as amended) provides that only graduates of approved universities will be enrolled as lawyers. Thus, a person will not be enrolled as a lawyer unless he/she is a holder of a degree from a university approved by the General Legal Council. Additionally, section 3 of the Allied Health Professions Council Act, 2013 (Act 857), mandates the Council to ensure that the education and training of allied health practitioners and other health care providers are carried out at approved institutions.

The National Board for Professional and Technician Examinations was responsible for the conduct of examinations and award of National Certificates, Diplomas and Higher National Diplomas. However, the COTVET was also mandated to rationalise the assessment and certification system in technical and vocational education and training.

Collaboration Among Statutory Regulatory Bodies

Collaboration among regulatory bodies is necessary to foster the optimisation of the objectives and functions of them to achieve effective regulation of tertiary education (Blackmur, 2007). However, the kind of relationship the statutory tertiary education regulatory bodies should have with other bodies that have oversight over aspects of tertiary education had not been defined in the enabling Acts of the statutory tertiary education regulatory bodies - NCTE, NAB, NABPTEX, and COTVET. Additionally, there was no indication in the enabling Acts of the statutory regulatory bodies regarding the kind of relationship they should have had among themselves. The National Accreditation Board Law (PNDCL 317) mandated the NAB to provide the NCTE with its annual reports. But this mandatory reporting relationship between the NCTE and the NAB was removed when the National Accreditation Board Law, 1993 (PNDC Law 317) was replaced with the National Accreditation Board Act, 744 in 2007.

The relationship between NCTE and the NAB was tenuous over the years. Indeed, there were instances where personnel of NCTE and NAB leveled complaints about the over-reaching of mandates and lethargy against each other. There were complaints that NCTE saw itself as a body with oversight authority over the other regulatory bodies. NCTE (2012) reported that there were situations where the NAB and NCTE found themselves in role conflict and role ambiguity. The officers of NAB had again complained that there were times when NCTE failed to provide policies to guide the tertiary education sector. Thus, the NAB took upon itself to issue administrative directives in the absence of clear policy guidelines from the NCTE and such actions had been interpreted as NAB overreaching its mandate.

These complaints by NAB seemed to have been affirmed by NCTE (2012) which stated that “we find that deterioration in the relationship between NCTE and NAB is a result of lack of pro-activeness on the part of NCTE within its constitutional mandate... as a result, NAB appears to be playing roles that NCTE should have taken up”. Additionally, officers of

NAB claimed that there were instances where programmes initially approved by the NCTE were not submitted to the NAB for accreditation. And NAB views that as direct sabotage of its functions by NCTE (NCTE, 2012). There had been issues bordering on the interpersonal relationship among the leaders of the two institutions which hampered collaboration among the two institutions. The NCTE (2012) stated that “we can confirm that the current situation of uneasy co-existence is the result of past personal relationship between the NAB and the NCTE”.

The NCTE did affirm that it derived its pre-eminent position in the regulation of tertiary education from Article 70(1)(v)(d)(iv) of the Constitution of Ghana. And as per the NCTE Act, 1993 (Act 454), the Council was the primary advisor on the development of tertiary education to the Government. The Council was also responsible for the coordination of the budget of the tertiary education sector and defending the same before the Education Committee of Parliament.

Relationship Between Regulatory Bodies and Tertiary Education Institutions

The National Accreditation Board accredited both private and public tertiary education institutions. The NABPTEX conducted examinations towards the award of Higher National Diplomas and Diplomas for both public and private tertiary education institutions.

The National Council for Tertiary Education’s (NCTE) advisory mandate covered all aspects and sub-sectors of tertiary education, including public and private tertiary education institutions. The Council was mandated to publish information on tertiary education in Ghana. In this regard, it was empowered to collect information on all tertiary education institutions (public and private).

The NCTE was expected to monitor the implementation of policies approved by the Minister of Education. Essentially, the Council was a conduit by which tertiary education and public administration and financial management policies and guidelines were transmitted to tertiary education institutions. The Council was expected to monitor the implementation of approved tertiary education policies and report on the implementation of the same to the Minister of Education and stakeholders. NCTE’s policy implementation activities in tertiary education were based on the delegated authority of the Minister of Education.

The enabling Act of the National Council for Tertiary Education mandated the Council to collect annual accounts of public tertiary education institutions and submit the same to the Minister of Education with comments. The Council was also mandated to advise governing councils of tertiary education institutions on the application for and acceptance of external assistance per government policy. The NCTE was expected to recommend and monitor the implementation of standards and norms in tertiary education. However, the Council did not have corresponding powers to take any specified actions against the institutions for non-compliance with its norms (Chirwa, 2013).

The Council's relationship with the private sector was not defined in its enabling Act. This had given the impression that the Council had no authority over the private sector (NCTE, 2014).

Relationship Between Tertiary Education Regulatory Bodies and Professions Regulatory Bodies

Professions regulatory bodies are mandated to license practitioners in their professional domains; they are required by their enabling Acts to approve the establishment of institutions that offer education and training in the subject within their remits and monitor the same to ensure that trainees are offered standard educational experience. Statutory tertiary education regulatory bodies are mandated to accredit institutions and programmes that are adjudged to have met predetermined minimal criteria required for education and training that would lead to the award of qualifications. However, discussions with respondents from the National Board for Professional and Technician Examinations and the National Accreditation Board revealed mixed results regarding collaboration with professions regulatory bodies and statutory tertiary education regulatory bodies.

Respondents from NAB and NABPTEX emphasised the necessity for the two organisations to collaborate with professions regulatory bodies to facilitate the training of professionals to meet standards required by the regulators of the professions. A respondent from NABPTEX stated that the Board works with professions regulatory bodies to define competences in the various subject areas to facilitate the development of curricula; the Board also works with experts of professions regulatory bodies to moderate questions for Higher National Diploma examinations.

The National Accreditation Board worked with experts provided by professions regulatory bodies to assess institutions and programmes for accreditation and continuously to monitor the quality of programmes in tertiary education institutions. However, a respondent from the National Accreditation Board reported that there were disagreements with an influential regulatory body of a profession (the council of a professional body) and the Board regarding accreditation of institutions and programmes. The Council did not agree to joint assessment of programmes for concurrent approval and accreditation by itself and the Board. Indeed, it was reported that a situation arose where the Council failed to approve the mounting of a programme which has been accredited by the Board. The Board has therefore decided that it would accredit programmes in the subject area of the Council only after the programme has been approved by that Council, to forestall disagreements on accreditation with that particular body.

The NCTE did not work directly with professional bodies; the Council in approving new programmes for mounting in public institutions demanded that the institution demonstrated that it had secured the collaboration of the relevant professional body to mount the new programme.

THE FUTURE OF TERTIARY EDUCATION REGULATION IN GHANA

To address the challenges in the regulation of tertiary education, the Education Regulatory Bodies Act, 2020 (Act 1023) has been enacted to merge the National Council for Tertiary Education and the National Accreditation Board to form the Ghana Tertiary Education Commission (GTEC). Additionally, the National Board for Professional and Technician Examinations and the Council for Technical and Vocational Education and Training have been merged to form the Commission for Technical and Vocational Education and Training (CTVET). The purpose of the enactment is to harmonise the consolidated bodies to promote greater efficiency in tertiary education (dailyguidenetwork.com/education-bodies-bill-passed).

The object of the Ghana Tertiary Education Commission is to promote the efficient and effective administration and accreditation of tertiary education institutions; and promote the production of appropriate human capital for the national economy, among others. The Commission is expected to perform general, advisory, coordinating, regulatory and accreditation functions (Government of Ghana, 2020).

Act 1023 provides that the Ghana Tertiary Education Commission shall jointly accredit technical and vocational education and training programmes and institutions at the tertiary level with the Commission for Technical and Vocational Education and Training; and jointly accredit professional programmes and institutions at the tertiary level with the relevant regulatory body (Government of Ghana, 2020). The Ghana Tertiary Education Commission shall liaise with the Commission for Technical and Vocational Education and Training and other education regulatory bodies particularly in the case of tertiary education in the performance of their functions (Government of Ghana, 2020).

The Education Regulatory Bodies Act, 2020, provides that, “*The Commission shall take appropriate actions including sanctions against public and private tertiary education institutions which act contrary to the norms and standards set by the Commission and the terms and conditions under which accreditation has been granted*”.

The Education Regulatory Bodies Act 2020 (Act 1023) (GoG, 2020) makes the Ghana Tertiary Education Commission the pre-eminent regulatory body in tertiary education. Thus, Act 1023 provides that, “*despite the provisions of any other law, the recognition, licensing, approval or accreditation of any academic programme including postgraduate degrees and diplomas and other academic degrees offered at a tertiary education institution shall be the exclusive mandate of the Commission to be exercised in accordance with this Act to the exclusion of any other person or body*” (GoG, 2020).

The Ghana Tertiary Education Commission is mandated to sanction tertiary education institutions for non-adherence to the Commission's norms. Section 5 of Act 1023 states that “*the Commission shall take appropriate actions including sanctions against public and private tertiary education institutions which act contrary to the norms and standards set by the Commission and the terms and conditions under which accreditation has been granted*” (GoG, 2020).

Despite the pre-eminent position of the Ghana Tertiary Education Commission in the regulation of the tertiary education, Act 1023 requires the Commission to cooperate with regulatory bodies of the professions to accredit professional programmes. Indeed, Act 1023 requires the Commission to consult the relevant professional bodies empowered to approve or accredit courses offered at a tertiary education institution, to which the programme relates. Further, to deepen cooperation with the

relevant professional bodies, the Act 1023 requires the Commission to engage professional bodies and associations to carry out inspection of the institution on behalf of the Commission. Act 1023 also requires the Commission to engage the Auditor-General with regards to financial management in tertiary education institutions.

The Education Regulatory Bodies Act, 2020 (Act 1023) (GoG, 2020) also merges the National Board for Professional and Technician Examinations and the Council for Technical and Vocational Education to form the Commission for Technical and Vocational Education and Training. The object of the Commission is *to regulate, promote and administer technical and vocational education and training for transformation and innovation for sustainable development* (Government of Ghana, 2020). The Commission for Technical and Vocational Education and Training has been given broad powers to formulate policies and regulate the vocational and technical education sector. The Commission for Technical and Vocational Education and Training has the remit to “formulate national policies for skills development across the broad spectrum of pre-tertiary and tertiary education, formal, informal and alternative education; and co-ordinate, harmonise and supervise the activities of public and private providers of technical and vocational education and training, including the informal sector” (Government of Ghana, 2020). Act 1023 empowers the Commission for Technical and Vocational Education and Training to accredit programmes, institutions, centres, facilitators, assessors and verifiers at the formal, informal, non-formal, public, private and pre-tertiary technical and vocational education and training institutions to ensure quality delivery.

Act 1023 mandates the Commission for Technical and Vocational Education and Training to collaborate with the Ghana Tertiary Education Commission and other relevant bodies. Indeed, the Education Regulatory Bodies Act, 2020, provides that the Ghana Tertiary Education Commission and the Commission for Technical and Vocational Education and Training shall jointly accredit technical and vocational education and training programmes and institutions at the tertiary level.

Conclusion

In this work, the overlaps and conflicts in the mandates of regulatory bodies of tertiary education in Ghana as well as the manner by which statutory tertiary education regulatory bodies work with regulatory bodies of the

professions in regulating tertiary education and the challenges therefrom are discussed. Additionally, we assessed the regulation and coordination of tertiary education in five African countries — Namibia, Ethiopia, Botswana, Nigerian, Uganda and Francophone countries. Three different regulatory models exist in tertiary/higher education in the African countries studied in this report. These are the Francophone Africa Model, the Sub-sector Regulatory Bodies Model and Dual Regulatory Bodies Model.

The Francophone Africa Model — In Francophone Africa, higher education is regulated by a Government ministry for higher/tertiary education. The CAMES has been established by these countries for accreditation of private institutions and the harmonisation and equivalence of qualifications, among others. The existence of CAMES makes for cooperation in higher education among Francophone countries in Africa.

Sub-Sector Regulatory Bodies Model — Nigeria and Uganda have separate bodies for the regulation of the Universities, Polytechnics and Colleges of Education. Such separate sub-sector regulatory bodies may promote specialisation in the oversight of their mandated areas. However, the likelihood of “turf protection” and higher costs in such an arrangement cannot be ruled out.

Dual Regulatory Bodies Model — Namibia, Botswana and Ethiopia have two bodies with remit for coordination and regulation of higher education. One body is responsible for advising the Government on the development of higher education as well as the planning and coordination of the tertiary education system. The other body is responsible for accreditation and quality assurance. The role of the Minister of Education in the supervision of higher education may be pronounced in Namibia, Botswana and Ethiopia than the other countries assessed in this work.

The 1992 Constitution of Ghana envisions a unitary regulatory body for tertiary education; however, many other bodies were established to regulate different aspects of tertiary education without a point of coordination thus engendering some overlaps and increasing the possibility of conflicts (NCTE, 2014).

The NCTE Act, 1993 (Act 454) established the NCTE as the body referred to in the Constitution in article 71(1)(d)(i), and charged with responsibilities for advising the Minister of Education on the development of institutions of tertiary education. However, the establishment of the National Accreditation Board, the National Board for Professional and Technician Examinations, the Council for Technical and Vocational Education

and Training, and other bodies that were given separate legal existence have resulted in the institutionalisation of a multiple regulatory regime in Ghana leading to overlaps and conflicts in the regulatory framework (NCTE, 2014).

The NCTE was not the only body mandated to advise the Government on tertiary education. The Council for Technical and Vocational Education and Training was mandated by Act 718 to advise the Government on all aspects of vocational and technical education. Under section 2(1)(d) (NAB Act, 2007 (Act 744) the responsibility of advising the President on the granting of charters to qualified private institutions was assigned to the NAB. Although the original NAB Law, 1993, PNDC Law 317 did not empower the NAB to advise the President on the granting of charters to institutions, this brought to the fore the possibility of multiple organisations giving conflicting advice to the Government on issues affecting tertiary education.

The kind of relationship that should exist among regulatory bodies was not clearly defined. (NCTE, 2012) stated that there is an absence of information flow across the three supervisory bodies — NCTE, NAB, and NABPTEX. Section 14 of the NAB Law, 1993, PNDC Law 317 required NAB to submit annual reports on its activities to NCTE, thereby ensuring a reporting line between the two agencies. However, this provision was dropped in the NAB Act, 2007 (Act 744). This action created a communication gap that resulted in the two bodies working in isolation of one another (NCTE, 2014).

Collaboration among statutory tertiary education regulatory bodies and professional regulatory bodies is necessary to foster education and training of professionals whose skills meet professional standards. However, it has been revealed that the regulatory bodies have not always cooperated to ensure quality outcomes in tertiary education as far as professional education and training is concerned. This state of affairs results from the fact that the relationship that should exist between the regulatory bodies is not defined in their enabling Acts. And, this often engendered disagreements on mandates. Multiple regulation could have adverse effects on tertiary education if regulators fail to cooperate in exercising their mandates. Regulatory costs are bound to increase if regulatory bodies fail to optimise their objectives (Blackmur, 2007). Duplication of functional units and operational objectives with its attendant cost to the higher education subsector may be the result.

Tertiary Education Institutions are compelled to respond to regulatory

requirements of multiple regulatory bodies. For instance, the dual approval process for new programmes which were carried out by the NCTE and NAB delayed the mounting of new programmes by public institutions and affected their (public institutions) competitiveness as far as the mounting of new programmes was concerned. The delays were exacerbated if graduates will require licensing to practise, in that situation, the institution was required to respond to the requirements of the profession's regulatory Council.

NCTE's preliminary assessment of new programmes mounted by public tertiary education institutions could take a year to complete. And that was a drawback on the competitiveness of public tertiary education institutions as far as the development of new demand-driven programmes were concerned. The effectiveness of higher education was therefore inhibited on the account of regulatory measures instituted by regulatory bodies.

The development and mounting of HND programmes was regulated by three bodies — NCTE, NAB, and NABPTEX. Section 4(1)(b) of the Technical Universities Act, 2016 (Act 922) prescribes a three-stage process for accreditation of Higher National Diploma programmes for public institutions. Technical Universities that intend to mount new HND programmes must first seek approval from NCTE; curriculum development and arrangement for examinations were supervised by the National Board for Professional and Technician Examinations whilst accreditation fell under the remit of the NAB. Another wassue is the duplication of operational activities among the statutory regulatory bodies. Both NCTE and NAB had units for data collection and analysis and on an annual basis, both organisations used almost the same information from the same institutions. The duplication of operational activities of the NCTE and the NAB undoubtedly exacerbated the cost of regulation of higher education.

In view of the challenges in the multiple regulatory regime in Ghana, the Government of Ghana initiated reforms to merge the National Council for Tertiary Education and the National Accreditation Board to form the Ghana Tertiary Education Commission, and put together the National Board for Professional and Technician Examinations and the Council for Vocational and Technical Education to form the Commission for Technical and Vocational Education and Training with the passage of the Education Regulatory Bodies Act, 2020 (Act 1023) by Parliament.

The Education Regulatory Bodies Act, 2020 (Act 1023) establishes the Ghana Tertiary Education Commission as the pre-eminent regulatory

body in tertiary education. Thus, it has primacy in decisions regarding issues in the regulation of tertiary education. It is expected that the reforms would promote effective supervision and foster cooperation in tertiary education. In this regard, the Act 1023 provides that the Commission shall liaise with the Commission for Technical and Vocational Education and Training and other education regulatory bodies particularly in the case of tertiary education in the performance of functions. The Commission is also empowered to proffer sanctions against tertiary education institutions which act contrary to the norms and standards set by the Commission.

Given the above, it seems the reforms have rationalised the regulatory framework to potentially improve the effectiveness in the supervision of tertiary education. However, it remains to be seen how the managers of the reformed institutions would operate the harmonised and the consolidated bodies to promote greater efficiency in tertiary education.

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