

Agency Problem in the unregulated Private Higher Education

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Abstract

This paper interprets the Agency problem prevailing in the unregulated private higher education institutions in the perspective of international student recruitment and transnational education. A purposive judgmental sample of multiple cases selected from 120 initial sample of local agents, through open ended semi-structured interviews. Social Cognitive theory, Theory of Planned Behavior along with the Agency theory triangulated to derive at a holistic interpretation. Findings revealed that Agency problem can be broadly interpreted in the context of international student recruitment and transnational education as an act of intentional misrepresentation, intentional misinformation and intentional misconduct beyond the intentions of the principal university.

Keywords: Agency Problem, International Student Recruitment, Case Study, Transnational Education.

Introduction

Higher education has faced many challenges in its long history, such as the transition towards neoliberalism at the dawn of the twenty-first century (De Wit et al., 2025). Agency problem is one of those issues cropped up with neoliberal global capitalism. Higher education is still a truly global endeavor, with over 250 million students enrolled in more than 22,000 universities worldwide. However, we have witnessed more public sector privatization and the growth of private postsecondary education, including online education, due to declining public financing and sustained demand. This will create more ethical and quality problems (De Wit et al., 2025). According to Kadirgamar (2017). Sri Lanka was the first nation in South Asia to "open up" its economy. The movement's social and economic function changed to an ambivalent one in Sri Lanka's economy in 1977 (Jayawardena & Samarasinghe, 2024). The solution to the problems plaguing the nation's HE system has been found to be

the creation of market-driven non-state and state institutions of higher learning (Abeyratne & Lekamge, 2012; Pitigala-Arachchi, 2012). Amidst this backdrop, this paper discusses the agency problem (AP) prevailing in the international student recruitment (ISR) and transnational education (TNE), in the unregulated private higher education institutes (PHEIs) in Sri Lanka from the perspectives of Agency Theory (AT). The Agency theory (AT) traditionally explains the contractual relationships (Ross, 1973; Jensen & Meckling, 1976; Eisenhardt, 1989a) and is applied in the international student recruitment (ISR) (Huang et al., 2014; Nikula & Kivisto, 2020a). The traditional principal agency contracts involve two individuals with actions affecting both parties (Berle & Means, 1932). Later, multiple agency theory (MAT) added complexity to these relationships (Holmström, 1979). These private HE Institutes (PHEIs) established branch campuses locally or operated as designated centers of foreign universities (British Council, 2024a). Higher education (HE) has a cross-border element that can be traced back to medieval times (Kim, 2024). According to UNESCO (2022), there were more than six million international students in 2019, up from approximately two million in 2000 (Inouye et al., 2022). About $\frac{1}{3}$ of enrolment to HE worldwide is estimated to be in PHEIs (UNESCO, 2022).

Majority of prior research on Agency Theory has addressed AP in governance issues in the perspective of PFU and agents to mitigate AP in Western countries (Huang et al., 2014; Nikula & Kivisto, 2020b) though South Asia is the region with the strongest presence of non-state actors in education (ADB, 2011; UNESCO, 2022). The central issue addressed here is the lack of broader interpretation and attention on AP between local agents and the principal foreign universities (PFU). According to extant literature, the AP arises due to conflicting interests, information asymmetry, moral hazards, adverse selection, and goal conflicts (Jensen & Meckling, 1976; Eisenhardt, 1989a; Kivisto, 2005; 2008). It is estimated that there are about 10,000-20000 education agents operating worldwide (BEG, 2016). However, absence of regulations is visible in the PHE with no clarity in objectives and no best practices in governance, which naturally raise concerns about the standards of programs offered with much ambiguity, inconsistency and poor quality (IPS, 2023; UNESCO, 2022).

Methodology

Within qualitative methodology this research was grounded in the constructivism and case study strategy with theoretical triangulation. A purposive judgmental sample of 120 local agents were deployed via open ended interviews semi structured, self-administered with much care on anonymity of data. All data were thematically analyzed (within case and cross case analysis) (Braun & Clerk,2006). All thematic outcomes finally mapped with the theoretical framework to achieve higher order categorization. Coding strategy deployed was Descriptive, In vivo, Priori and Process coding (Saldana,2013).

Originality of this research lies on the unique approach on interpreting the AP in the local context of ISR in the unregulated PHEIs. Due to aforementioned gaps in the interpretation of AP according to the present context, this research emphasized on “intention of agents” rather than the prior research on AP in ISR in higher education. Therefore, using Social Cognitive Theory (SCT) (Bandura,1986;1999;2001;2006), Theory of Planned Behavior (TPB)(Ajzen,1991;2006) in line with the assumptions of AT to serve the purpose of this research, AP interpreted through theoretical triangulation(Hoque,2013), amidst lapses of regulation and tension between internal interests and compulsion for local recognition” arise to attract students locally (Maslow,1943;Zhang et al., 2018) according to the status quo of private higher education (PHE) as mentioned in the **(Fig.1)**.

Triangulation was deployed as it validates, challenges, extend, and enhance confidence of the findings (Ediyanto, Zulkipli, Sunandar & Yunus, 2025). Therefore, empirically multiple case study was deployed to facilitate the interpretation of AP in the local and sub agent perspective as engaged in ISR and TNE in the unregulated private higher education (PHE). Following five multiple cases (Stake,2006; Yin,2017) transcribed via written notes with informed consent with multiple intervals from 2017-2022. An observer role was maintained while interviewing during the multiple case study (Creswell,2013). Ethical approval was obtained from Ethics Review Committee of Humanities and Social Sciences of University of Sri Jayawardenepura, Sri Lanka for this research:

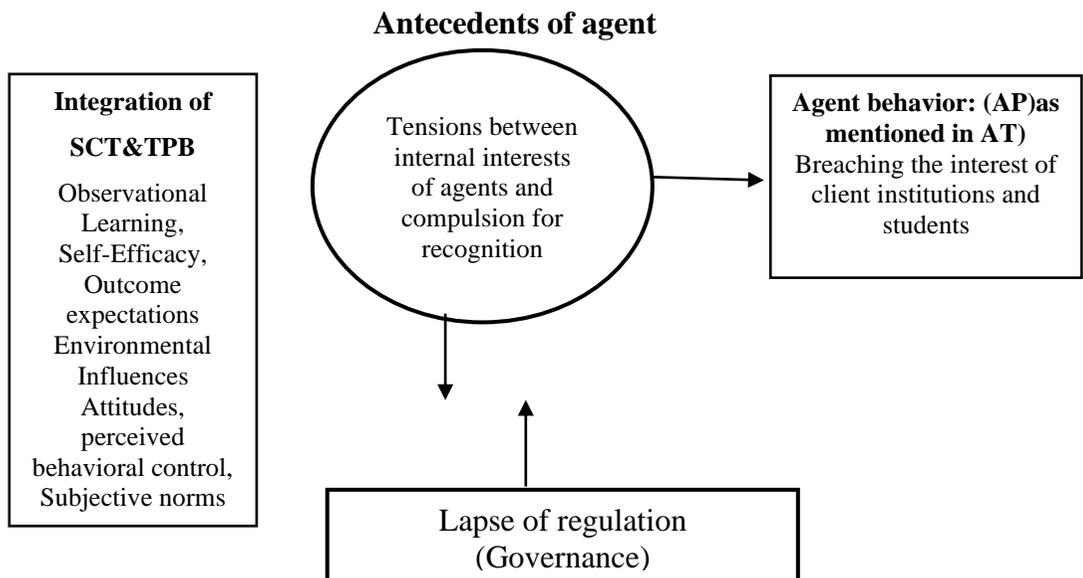


Fig. 1: Theoretical framework. *Source:* (Ajzen, 1991; Bandura, 1986;2001;2006)

Case A1: A Case pertinent to forged degree certificates and degrees offered to students having misrepresented the University A.

Case B2: A higher education Institute C published as an Institute offering, “Government approved degree certificates”.

Case C3: Honorary Doctoral Degree in Public Administration offered to a local applicant from a university not accredited by the National Body in the respective country and not listed in the World Higher Education Database (International Association of Universities), submitted to local government appointments.

Case D4: Higher Education Institute being restricted its operations by the Higher Education Commission of another country operates in local context issuing fake degrees by violating their charter.

Case E5: Using Foreign University name which do not allow to operate distance education, transnational education, any offshore degree programs.

Based on literature reviewed and data collected three selection criteria of multiple cases was decided in order to explore empirically how unethical practices committed by unregulated PHEIs: These include

- 1) lack of proper liaison with the principal university (Huang et.al., 2014),
- 2) Lack of authorization: Intention to perform without proper authorization (Chang, 2013; Ajzen,1991; Bandura, 2001; Bandura, 2006),
- 3) Lack of Sustainability: Period of continuity in operations with the principal university (British Council, 2024c).

Case A1: Forged Degree certificates and degrees offered to students misrepresenting the University A

A Government Authority in Sri Lanka has received a complaint from the Special Criminal Investigation Division of Sri Lanka Police that sixty-seven (67) students were given the fake degree certificate for USD 500 after completion of a Master of Education degree at Campus A which belongs to an Agent in Sri Lanka who signed an agreement with Agent 2 from the Institute B in India. When one of the managers was interviewed pertaining to the matter, he said that: “Private institutes cannot survive in this HE business unless we compete and motivate students by any means at any cost to get into our university. Finally, it is on our hands to run the game.”

Later at one stage, Vice President of University A addressed the Sri Lankan Ambassador of Thailand, the country where University A is located and stated that the University A has not issued any Degree certificate and had not enrolled any students from Campus A which belongs to Agent 1 who has entered to an agreement with a sub agent in India and not with the main University A.

Further, on 10th May 2021, Vice Rector of the University A acting on behalf of the Rector addressed the Rector of Institute B in India and Agent 1 of Campus A in Sri Lanka and has mentioned that in order to formally partner, an MOU and a Memorandum of Agreement (MOA) must be signed outlining proper implementation protocols and as outlined in Section 3.1 of the MOU, all programs and activities must be implemented under the terms of the MOU

and shall be mutually agreed upon in writing. To this day, the main University A and Institute B in India has not signed a MOU.

Campus A issued falsified certificates and degrees in many different ways: It was mentioned clearly when both the rectors of Campus A and Institute B were at the University A that students who have already enrolled in Campus A, before the MOU was signed cannot be accepted to the University A. Campus A in several occasions has attempted to enroll students prior to signing of MOU to the University A without permission.

University A has discussed that they will deny the admission of future students who wanted to major in Bachelor of Arts (BA) and Masters of Arts (MA) in English degrees because they do not have those degree programs. Campus A has falsely issued the BA and MA in English degree certificates as well as many other degree certificates to the students under the name of University A.

The Master of Education program at the University A has not enrolled any student from Campus A because it has reached enrolment capacity. However, Campus A has enrolled students to the University A program without its knowledge.

University A has received many complaints from students regarding the authenticity of certificates and degrees. Main university has requested the campus A several times for clarification but the Agent 1 was dishonest, claiming they did not issue certificates and degrees to students. The university A has proof and received evidence of a falsified degree certificate issued by campus A from a graduate of Campus A.

To the date of 10th May 2021, the main university has not received and charged any fee from students of campus A, and has stated that it will not accept any fee due to illegal behavior of Agent 1.

Further, the university A demanded action on the following:

1. University A never registered or issued certificates or degrees to students of campus A. Therefore, all certificates or degrees from past to present that students received were fake.
2. University A shall not assume or ever have any liability or responsibility for Institute B in India and Campus A due to fraudulent activity.
3. University A has launched a legal complaint to the police in the respective country and the embassy of that country in Sri Lanka for

fake documentation. These have been forwarded for investigation due to the nature of international scam.

4. Defamatory behavior of Campus A has ruined the reputation of the University A by issuing falsified degrees, which lowers its quality standards.
5. Campus A must recall the certificates and degrees they have issued to students under the name of the University A.
6. Since, the University A and the Institute B are no longer partnering, Institute B and all its partners, including campus A and are not allowed to promote any programs from the University A. Institute B and Campus A must remove all mentions of the University A which includes, but is not limited to all text, graphics, logos, photos, designs, trademarks, artworks, media, videos, websites, flyers, banners, brochures with effect from 10th May 2021.

Vice President of University A addressed the Sri Lankan Ambassador in Thailand, the country where University A is located having gone through the MOU sent by the Sri Lankan mission, and stated that they never let any institution to sublicense the MOU to this day of 4th June 2021, and University A and Agent 2 in India have not signed the MOU. It was clearly mentioned that both rectors of Institute B belonging to Agent 2 and Campus A belonging to Agent 1 were in Thailand at one instance and those 67 students who had already enrolled in Campus A before the MOU was signed and cannot be accepted at University A. Campus A has on several occasions attempted to enroll pre-MOU students to University A without permission and it is against the rules and conditions of the Thailand Ministry of Higher Education.

The Ambassador, of the Embassy of the Democratic Socialist Republic of Sri Lanka in Thailand by his email dated 15th July 2021 has informed that they have received the self-explanatory letter via email from the Rector of the Campus A, Sri Lanka, informing that students completed the degree courses at his Campus have not offered the graduate certificates by the University A, Thailand, and requested to facilitate his request.

Some of the facts brought to Ambassador's attention by the University A are as follows:

1. University A has never entered into a MOU with Campus A and they have entered into an agreement with Institute B, India.

2. Campus A has issued graduate certificates without the knowledge of University A and the certificates are brought to their attention by some of the degree holders for verification.
3. Upon receipt of such queries for verification, University A has consulted the Embassy of Thailand in Colombo. The copy of a note issued by the Thai Embassy in Colombo advising University A, Thailand to consult a lawyer for legal proceedings was also handed over.

Further, the Embassy also pointed out that “forged” certificates have also been produced for attestation by the Government authorities in Sri Lanka. Government Authority in Sri Lanka does not involve in attestation of any foreign university certificates. However, in terms of the provisions of the Public Administration Circular No. 16/92 dated 13 March 1992, the respective Government Authority recognizes the universities listed in the following international publications, which are authentic sources of information on Universities and HEIs in different countries of the world:

1. Commonwealth Universities Yearbook,
2. International Handbook of Universities.

University A, in Thailand is a university listed in the International Handbook of Universities published by the International Association of Universities as at 16th May 2022 as inquired by Campus A. However, authenticity of the degree certificates need to be verified by the University A. At the time of the verification process by one of the informants, the case was brought to the notice that University A. The University A was unaware about the situation and has not issued such degree certificates. Campus A frequently requested Government Authority to issue a letter on behalf of them as they are facing a difficult situation. However, the Government authority in Sri Lanka stated that they are not in position to be involved in non-state matters as such matters are not within the purview of the Universities Act No. 16 of 1978.

Private HEIs Breaching the Interests of Students

There were two cases where the interests of students were breached. This private HEI with the intention of attracting the desired student cohort used their letterheads and paper advertisements even before checking their recognition and taking any proper authorization from the principal university. The students in the in remote areas of the Eastern and Northern provinces of

Sri Lanka are not aware about the recognition or the authorization. This private HEI used to be a family business and their predecessors used to engage in this business as long as students are not aware about the recognition of universities and their authorization. These private HEIs used to obtain letters as designated centers of the principal university via a sub agent. However, authenticity of these activities or designated centers and agents were not explored by anybody in Sri Lanka and unresearched.

Case B2: Institute C: Published as an Institute Offering “government Approved Degree Certificates”

Advertisements were published by private HEIs even without checking the listing of the Universities in the Commonwealth Universities Yearbook and International Handbook of Universities. It was observed that the MOU between the principal University and the Institute C, letterheads of the Institute C, located in Jaffna carried wordings “UGC approved degree certificates.

Social acceptance of the Government organizations has been misused in advertising the programs by the Institute C to have acceptance in the society as well as to attract a large student population. They have published in Tamil newspapers and issued brochures. They are very much aware that there are no strict regulations in Sri Lanka as there is no presence of proper agent networks for countries other than Canada, New Zealand, UK, USA, Australia, and Finland.

When one of the senior managers of the said institute interviewed, he said that the recognition is immaterial to them as long as the HE business is profitable, their father used to do this business and they did not want company registration as they will come and check.

However, they used to keep contact with Sri Lankan embassy with few known people to help with their business and those people are also Tamil officers.

Case D4: HEI whose operations are restricted by the Higher Education Commission of another country operates in Sri Lanka issuing fake degrees by violating their charter

HEI C, whose operations have been restricted by the Higher Education Commission of a foreign country and many other countries, operates in Sri Lanka as an affiliated institute of a foreign university according to their charter signed on 10th January 2000. This HEI has violated its charter with the Foreign

University, offered fake degrees using newspaper advertisement and designed a fake letter said to have been issued in 1991 by the Government Authority indicating that it conducts graduate and postgraduate courses with the full approval of the Sri Lankan Government Authority and further requested recognition as a recognized institute from the relevant Government Authority in Sri Lanka. However, the Government Authority rejected the claims and request made in August 2019 as they have been declared in foreign countries in the list of illegal/ fake universities and campuses. This HEI C is neither listed in the International Handbook of Universities nor requested any degree granting powers from the Ministry of Education in Sri Lanka. It had operated within Sri Lanka and foreign countries for many years offering fake degrees charging huge sum of money from students. Parties representing this HEI C have met the authorities and explained the matter; however, they have failed to obtain the recognition and the Government Authority has informed the relevant Higher Education Commission in the foreign country that the letter issued is a fake. Further, even in the absence of proper authority they functioned as a designated center of the university and said to have appointed by a sub agent where authenticity was not explored by anybody and not even by the students. Students were given fake promises of offering allied health degrees even without proper teaching hospital training. This is also not registered under the Registrar of Companies.

Private HEIs Breaching the Interests of Principal University

Generally, agents engage in unethical practices by misrepresenting the principal university without authority to perform their operations (Nikula & Kivisto, 2020). This leads to limited transparency in their activities. Such instances intend to provide more profiteering opportunities for agents breaching the interests of the principal university.

Case C3: Honorary Doctoral Degree in Public Administration offered to a Sri Lankan from a University not accredited by the National Body in the UK and not listed in the WHED

Procurement Officer of a Local Government authority in Sri Lanka verified the recognition of the University B from the Government Authority of Sri Lanka on 8th September 2021 as the respective candidate has submitted documents along with a Doctoral Degree certificate obtained from University

B in the UK, for employment in a key position. After checking it was verified that the University B is not listed either in Commonwealth Universities Yearbook or in the International Handbook of Universities as at 29th September 2021. The matter was further verified via email dated 30th September 2021 from the information and publication officer of the International Association of Universities. By the email dated 30th September 2021, the said officer stated that “This is not a university accredited by the national body in the UK even and it is not listed in the WHED”. This was finally conveyed to the relevant Local Government authority.

The case revealed that having gone through the credentials of the said candidate and in recognition of his achievements in the field of Road Development, the Academic Council of the said University B has offered an Honorary Doctoral degree in public administration and the graduation took place in Dubai on 19th June 2019.

The Marketing Manager of the institute, who supposed to be the agent of the University B later said that their CEO was doing business for nearly ten years and this academic activity was running for three years. He further said that they offer their own credentials and maintain good relations with the University B and therefore no one will come for academic audit. However, they failed to submit any evidence for a MOU or an agreement signed with the university B.

Further conversation with the Senior Manager of the institute revealed that they produce attractive brochures but have not obtained proper authorization at least through a sub agent and was running the institute within their allied business, with close academia where they have been supported with a good sum of remuneration. They have conducted their convocation in Dubai as it is beyond the vicinity. All attempts were made without proper authority; however, much favoritism was engaged.

Case E5: Using the name of a foreign university name which does not conduct distance education, transnational education, or offshore degree programs

Degree holder of a foreign university said to have affiliation with a leading non-state HEI in Sri Lanka, has verified the authenticity of the degree from that university as the confirmation was needed to inform the employer. Most of the Sri Lankan Private and Government sector employers need verification

from the foreign university at the time of recruitments. When verified from the Foreign University The relevant candidate received the following response on 8th February 2021:

“Please be informed that based on our records, as well upon verification with the Office of Programs and Standards Development of the Commission on Higher education (CHED), said university located in a foreign country has no authority to operate distance education and transnational education or any offshore degree program offering. As such, it is not allowed to accept foreign students not staying in that country. Further, we have already written to said non-state Institute regarding this alleged offshore program or distance education offering so the concerned institute can shed light on the matter.”

On 22nd February 2021, the President of the University has sent the following communication when inquired about this incidence:

“We regret to inform that the relevant candidate does not appear in the list of enrolled students of the said foreign university. Further, the foreign university does not offer Doctor of Business Administration, and we do not recognize the said transcript of records and the said photograph has not taken at our campus. While our programs are duly recognized and accredited in the said foreign country, we are sorry that said foreign university has been used by persons and organizations without any authority and agreement or contract from the said university and persons whose identities are unknown to us”.

This agent, a senior manager of a private HEI, has issued credentials without the authority of the principal university and was warned of this activity several times. Copy of the credential was probed and it was found that there was no proper document authorizing their establishment. However, in the local context operations were not disturbed in the Eastern province as they are aware that no regulation is present in this regard in Sri Lanka.

Even the Registrar of Companies was unable to give a list of private HEIs in order to probe into certain matters with regard to such incidences.

Quotes mentioned in the multiple case study are pivotal because they show subjectivity of the human experience in qualitative data indicating different perspectives and intentions behind committing unethical practices in

the unregulated non-state HE sectors. These quotes highlight the broader view behind the intentions of committing unethical practices leading to AP and other individual, generational and environmental factors leading to committing an unethical act.

These cases were classified into two main categories, i.e., breaching the interests of students and breaching the interests of PFU. The chosen theories integrated such as SCT and TPB and AT also suggest the significance of intention to perform the private HE sectors with proper authorization. This highlights the importance of “intentionality” as majority have profiteering targets without obtaining proper authorization, which enhances committing more unethical practices and the significance of principal and agent relationship. The codebook organized priori codes theoretically derived from SCT and TPB into categories aligned with first cycle coding (Descriptive, In Vivo, Process) and second cycle coding (Axial) (Saldana,2013).In order to interpret the AP more holistically, second cycle themes have been organized into three intentional categories: Intentional Misrepresentation, Intentional Misinformation, and Intentional Misconduct. These categories in (Table 1) reflect the agent's deliberate departure from ethical and contractual expectations. This categorization built a meaningful bridge between the thematic outcomes and AT while being grounded in the SCT and TPB framework (Ajzen, 1991; Bandura, 2001; 2006):

Authenticity of this research was ensured based on constructivism by ensuring authenticity criteria such as fairness, ontological authenticity, educative authenticity, catalytic authenticity (Guba & Lincoln, 1994).

Findings

Findings of this thematic exercise along with multiple case study reveals AP as an act of intentional misrepresentation, intentional misinformation coupled with intentional misconduct beyond the intentions of PFU. This is a broader interpretation than the present interpretation of AP in the extant literature based on intentional constructs, theoretically triangulated. While some governance mechanisms for AP have long been advocated within western context, very little attention has been paid to their effective implementation in emerging economies in South Asian countries operating Private HEIs such as in Sri Lanka. Broader interpretation of AP reveals in this paper in terms of an individual or organization-wide intentionality, driven by

environmental determinants, internal drives and dispositions of self or organizational actors to commit a conflicting act beyond the intentions of the principal and contributes to the current literature on AP.

Second Cycle Theme	Intentional Category	Justification
Fraud Normalization	Intentional misrepresentation	Fraud becomes normalized as agents intentionally misrepresent standards, affiliations, or approvals.
Observed behavioural patterns	Observed behavioural patterns	Observed behavioural patterns
Motivated by market demand	Motivated by market demand	Motivated by market demand
Learning via trust networks	Learning via trust networks	Learning via trust networks
Ethical justification patterns	Ethical justification patterns	Ethical justification patterns
External enablers of fraud	External enablers of fraud	External enablers of fraud
Social facilitation of fraud	Social facilitation of fraud.	Social facilitation of fraud
Evasion confidence, regulatory blindness	Intentional misconduct	Belief in being able to evade accountability demonstrates calculated defiance of rules.
Control over compliance risks	Intentional misconduct	High perceived control over unethical actions reflects purposeful engagement.
Normative market behavior	Normative market behavior.	Normative Market behavior
Social pressure to conform	Intentional misinformation	Peer influence reinforces misinforming behaviors under the guise of conformity.
Attitude toward legitimacy	Intentional misrepresentation	Downplaying accreditation indicates willful misrepresentation of program status.

Informal operational control	Intentional misconduct	Circumventing formal agreements (e.g., late MOUs) is a strategic breach of trust.
Unregulated access to certification	Intentional misconduct	Having the tools and intent to issue unverified degrees reflects direct policy violation.

Table 1: Second cycle themes organized into three intentional categories: Intentional misrepresentation, Intentional misinformation, and Intentional misconduct.

Source: Author Compilation (2025)

Conclusion

It can be concluded that, by combining with-in case analysis, cross - case analysis and theoretical triangulation using SCT and TPB, addressed significant lapses in the AT, offering a more holistic understanding of AP in the perspective of ISR and TNE in HE. This integrated approach extended AT by incorporating behavioral, social and environmental factors, further enhancing theoretical rigor by linking internal and external drivers of fraudulent behaviour. It can also be concluded that having proper authority in performing contractual relations with the principal foreign university through proper agent networks without intending to engage in unethical practices is of utmost importance to attract relevant student. Unregulated private HEIs should appropriately liaise with principal foreign university and maintain a strong mutual understating along with healthy business relationships with stakeholders of HEI, even in the absence of proper business contacts or relations. In addition, it can be concluded that having sustainability in HE business operations is very important as it largely impacts the stakeholders to maintain the loyalty and trustworthiness.

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