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Council on Higher Education

Eternal (and Internal) Tensions? Conceptualising Public Accountability in South African Higher Education

Research Report

Steven Friedman and Omano Edigheji

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Research report prepared for the CHE Task Team on South African Government Involvement in, and Regulation of, Higher Education, Institutional Autonomy and Academic Freedom (HEIAAF)

by Steven Friedman and Omano Edigheji

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PREFACE

This paper by Steven Friedman and Omano Edigheji is one in a series of research papers on the topic of academic freedom, institutional autonomy and public accountability in contemporary South African higher education. These perspectives have been commissioned as part of the enquiry of an independent Task Team, convened by the Council on Higher Education (CHE), to investigate the past decade of regulation of South African higher education by government and other agencies, and to promote debate on conceptions of autonomy, freedom and accountability, in general, and in the specific context of higher education transformation.

Amid concerns and claims by some that the nature of government involvement in South African higher education in the second decade of democracy is in danger of moving from 'state steering' to 'state interference', the CHE believed it important to undertake a sober and rigorous investigation of the issues, so giving effect to the CHE's responsibilities independently to advise the Minister of Education, to monitor and evaluate higher education, and to contribute to higher education development.

Specifically, the Higher Education, Institutional Autonomy and Academic Freedom (HEIAAF) Task Team investigation – ongoing between 2005 and 2007 – has aimed to:

- stimulate research and writing;
- build shared understandings of institutional autonomy, academic freedom and public accountability, through the creation of various public fora public discussion and debate on these important principles; and
- develop consensus, as far as is possible, on the nature and modes of government involvement in higher education transformation, and on the relationships between government and other regulatory bodies, and higher education institutions.

Five key mechanisms were adopted by the Task Team for these purposes.

First, an overview of recent and current debates in South African higher education around the issues, was commissioned and completed in October 2005. The overview was posted on the CHE web site, together with a select bibliography of further reading, as a means of informing and stimulating wider debate.

Second, the Task Team issued an invitation to stakeholders (stakeholder bodies, higher education institutions, institutional stakeholder formations and individuals) to make submissions in writing or in person, on issues falling within the scope of the HEIAAF enquiry. These too were posted on the CHE web site and formed part of the source materials provided to commissioned researchers.

Third, the Task Team has supplemented, and continues to supplement, stakeholder submissions

by conducting interviews with selected individuals or groups having knowledge, experience, perspectives or affiliations central or relevant to its enquiry.

Fourth, independent research projects were commissioned by the Task Team. Research proposals were developed, in the first instance, on the basis of lines of enquiry suggested by the overview of recent and current debates, and by stakeholder submissions. In addition, the intention was that the individual pieces of research should afford complementary and multi-faceted perspectives on the core issues of the HEIAAF enquiry, allowing for the sum of the individual projects to be greater than their parts. One such research outcome is presented here as one in a set of research reports published by the CHE.

Fifth and finally, the Task Team has organised and accessed structured fora, in order to facilitate discussion, exchange views, and further debate. Six regional fora served the purpose of engaging institutional and other stakeholders in the debate (convened in Pretoria, Bloemfontein, Cape Town, Johannesburg, Durban and Port Elizabeth, between March and June 2006).

The Task Team's investigation will culminate in the latter part of 2007 in an independent research report; a national seminar for the purpose of disseminating the report; and a report to the Minister of Education (which may be the research report, or alternatively, may be a policy report prepared by the CHE on the basis of the Task Team's independent report). The current moment in the investigation is an important one for consolidating the investigation through continued engagement with the issues and the Task Team will convene a public seminar for this purpose early in 2007. This paper is, therefore, offered as a means of building the debate, and developing shared understandings through reflection and engagement, towards the envisaged outcomes.

The Task Team acknowledges the important contribution of the following people to this publication and to the unfolding HEIAAF process:

- the commissioned researchers and their research teams;
- the keynote speakers and discussants at the regional fora;
- institutions, organisations and individuals who have contributed to the HEIAAF process via submissions, interviews, critical reading of draft research papers, and attendance at regional fora;
- the Ford Foundation which has provided partial funding support for this publication and for the HEIAAF project.

Dr Khotso Mokhele
Chair: CHE HEIAAF Task Team
December 2006

NOTE ON THE AUTHORS

Steven Friedman is Research Associate at the Institute for Democracy in South Africa (IDASA) and Visiting Professor of Politics, Rhodes University. He is a political scientist who has specialised in the study of democracy, its preconditions and prospects. During the 1980s, he undertook a series of studies of reform apartheid and its implications for a democratic future; both before and after the elections of 1994, he initiated early reflective work on the South African transition to democracy; and more latterly he has engaged in research into the relationship between democracy and social inequality. This current work focuses on the implications of inequality for democracy and feasible responses by new democracies to inequality. He is the author of *Building Tomorrow Today* (1987), a study of the South African trade union movement and the implications of its growth for democracy, and the editor of *The Long Journey* (1993) and *The Small Miracle* (1995 with Doreen Atkinson), which presented the outcomes of two research projects in the South African transition. He is currently studying the role of citizen action in strengthening and sustaining democracy.

Omano Edigheji is Research Manager of the Centre for Policy Studies (CPS), Johannesburg, South Africa. A political economist by training, his research interests are broadly in the area of comparative political economy, with a focus on globalisation and the state in developing countries, and on issues of governance, democratisation, civil society and development in Africa in the context of globalisation, as well as state-society relations in developing countries. He also researches on South African political economy, including black economic empowerment (BEE). Omano has published extensively and is co-editor of the book *Governance in the New South Africa: the Challenges of Globalisation* (2003, University of Cape Town Press). He is currently undertaking research that explores the possibility of a democratic developmental state in Africa.

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ACRONYMS

CHE	Council on Higher Education
CODESRIA	Council for the Development of Social Science Research in Africa
DoE	Department of Education
DoL	Department of Labour
DST	Department of Science and Technology
HEIAAF	Higher Education, Institutional Autonomy and Academic Freedom
NEDLAC	National Economic Development and Labour Council
SASCO	South African Students' Congress
UCT	University of Cape Town
UJ	University of Johannesburg
UK	United Kingdom
UKZN	University of KwaZulu-Natal
UNESCO	United Nations Educational, Scientific and Cultural Organisation
US	United States
Wits	University of the Witwatersrand

ETERNAL (AND INTERNAL) TENSIONS? CONCEPTUALISING PUBLIC ACCOUNTABILITY IN SOUTH AFRICAN HIGHER EDUCATION

The ultimate aim of accountability and responsibility mechanisms in democratic policies is to ensure responsiveness by government to citizens' preferences and needs. (Dunn 2000: 63)

INTRODUCTION

An enquiry into the public accountability of higher education institutions in South Africa (or, indeed, in any society), requires us to pose several related questions. First, are South African higher education institutions accountable to the public in whose midst they operate? If so, of what does that accountability consist? And how can it be ensured in ways which do not compromise the intellectual freedom of those who work in higher education institutions? Second, what is the place of higher education institutions' public accountability in the context of democratic governance? Third, how can we balance the need for institutional autonomy with public accountability? Fourth, what is the public purpose of higher education institutions and what, therefore, is the purpose of their public accountability? By addressing these issues, we can begin to define and conceptualise higher education institutions' public accountability in South Africa's democratic order.

This paper, therefore, seeks to conceptualise the public accountability of higher education institutions in post-1994 South Africa. It is divided into eight sections. Following the introductory section, sections 1 and 2 respectively provide the background to, and rationale for, institutions' public accountability, while section 3 deals with some of the problems which this poses. Section 4 conceptualises and identifies routes to public accountability in the context of higher education institutions. It also criticises the argument that the market can ensure the public accountability of institutions. Section 5 examines the tensions between institutions' public accountability and academic freedom. Section 6 argues for the institutionalisation of negotiation, before a brief concluding section draws the paper to a close. The paper draws on secondary sources, presentations at meetings of higher education stakeholders, and interviews.

1. BACKGROUND

The history of higher education in Africa in general, and in South Africa in particular, has tended to create more resistance to the idea that higher education institutions are publicly accountable than seems warranted.

In much of Africa, post-colonial administrations, often using the rationale that higher education needed to serve national developmental goals, extended control over higher education institutions, intervening directly to determine what would be taught and who would teach it; the goal was to ensure that the academy obeyed and served the ruling elite. The effects – on human beings and on the academic enterprise – were devastating: instead of inspanning the academy to national goals, government control not only violated the rights of African scholars but degraded once effective academic institutions. As a result, African scholars today are, understandably, far more concerned to assert their right to freedom than to explore the requirements of accountability (Diouf & Mamdani 1994).

In South Africa, of course, apartheid segregated higher education institutions, partly by enforcing far more rigid racial exclusion on the white-dominated 'open' English language institutions, forbidding them to enrol black students unless express ministerial permission was obtained; it created separate – and unequal – institutions for black students and insisted that the state, not the academy, set admissions policy. In this context, it is perhaps no surprise that those higher education institutions whose admissions policies were restricted by the state tended to present incursions by government on their prerogatives not as the legitimate exercise of public accountability but as an illegitimate invasion of a space in which political authority was not meant to tread. And, in the context of the times, it was predictable that this insistence on drawing an ethical line beyond which the state should not venture tended to be seen as a protest against tyranny, not a selfish attempt to avoid public responsibility. The 'classical' formulation of academic freedom was that of TB Davie, former Vice-Chancellor of the University of Cape Town (UCT), in whose memory an academic freedom lecture has been delivered at the university for over four decades: "our freedom from external interference in (a) who shall teach, (b) what we teach, (c) how we teach, and (d) whom we teach" (cited in Du Toit 2000: 77).

The advent of democracy in 1994 was bound to disturb the assumption that government's most useful contribution to the academy was to leave it alone. For the first time in South Africa's history, government could legitimately claim to speak on behalf of society – and more particularly a majority which had been subordinated by racial domination and was entitled to expect that democracy would also bring concrete measures to abolish racial privilege in all aspects of the society's life – including, of course, higher education institutions. Leaving higher education to its own devices could, in this context, be seen not as movement away from oppression but as abrogation of responsibility, for it seemed certain to allow white-run institutions to remain islands of privilege, immune from the pressures for racial equity which the new order was meant to pursue. The establishment, in 1994, of a legitimate government which

represents the majority of citizens meant that the public accountability of higher education institutions was placed firmly on the higher education agenda; institutional autonomy and academic freedom was no longer an unalloyed good in the fight against racial domination, but one which needed to be qualified by the competing demands of accountability to the new society and its goals.

But for many in higher education, the assertion that higher education institutions ought to be publicly accountable tends to evoke a return to a past of government authoritarianism which violated human rights and degraded the academic enterprise. And so the desire of the elected post-1994 government to 'steer' higher education institutions in a direction it considers appropriate to national development goals has been seen by many in higher education institutions, as well as philosophers of education, as a return to authoritarianism and an erosion of academic freedom – higher education institutions, it is said, are less free and more subject to control than they were before 1994 (Higgins 2000; Jansen 2004). The demand for accountability is, therefore, seen as a rationale for illegitimate state intervention.

In both apartheid South Africa and much of post-independence Africa, therefore, public accountability came to be viewed (albeit in different contexts) as accountability to political power holders and was, for that reason, resisted. But accountability is a much broader concept than a demand that higher education account to the political authorities. Precisely because the apartheid experience and experience elsewhere on the continent has made this difficult to see, it is vital to the debate on higher education accountability that we subject the concept to more thorough scrutiny and seek to develop notions of accountability which go beyond the demand of public authorities that higher education institutions conform with their requirements.

2. THE NEED FOR HIGHER EDUCATION ACCOUNTABILITY

While history and experience may explain the reluctance of key actors and thinkers in higher education to emphasise accountability, it does not make it defensible.

Academies are public institutions, constituted by statute, funded by public resources and devoted to a public purpose (Boyte 2003a; Boyte 2003b). Since they are constituted by an act of Parliament, their personnel are, in law, non-elected public officials. This poses several problems, among them: how university employees, including academic staff, relate and account to elected public officials and how they account to the public by ensuring that their actions are responsive to the needs and aspirations of citizens. This in turn raises the questions of what mechanisms are needed to ensure higher education institutions' public accountability and how the need for accountability to the public is balanced with the constitutionally guaranteed right to academic freedom and institutions' demand for autonomy?

The difficulties posed by insisting that institutions and individuals should be entitled to public resources (as, of course, higher education institutions and those who teach and research in them are), but should be left to decide without hindrance how to use them, should be obvious. Besides potentially opening copious channels for abuse, the denial of higher education institutions' accountability abrogates democratic principles by placing a key public activity outside the realm of democratic debate, deliberation – and, if needs be, intervention. But more is at stake than the claim that those who benefit from public funds are accountable to those who provide them with resources. As the philosopher John Dewey pointed out, seemingly 'private' activities are often of public concern because their consequences hold implications for the society as a whole, not just for those who engage in them (Dewey 1927). The media are perhaps the best example for our purposes – while largely privately owned, they clearly have considerable capacity to impact negatively and positively on the lives of many people who have no control over the way in which they are affected. While this is not necessarily a cause for regulation or control, it does establish a need to account to society.

If a concrete illustration of the dangers of a denial of public accountability is needed, it lies in the celebrated 'TB Davie formula' itself. If its stipulations are taken as absolutes, not qualified by the accountability principle, then it sanctions, for example, the right of those who run higher education institutions to admit and hire only blood relatives – or to squander public resources on teaching courses which are of no interest to anyone except higher education institution administrators. More pertinently, the Davie formula would appear to offer no restraint on higher education institutions should they, in post-apartheid South Africa, choose to enrol and appoint to faculty only white men. The formula was originally a response to government attempts to force institutions to discriminate and it therefore does not prevent discrimination *by* them.

Similarly, the formula does not protect academics from incursions on their freedom by higher education institutions. If institutions have the unfettered right to decide who shall teach, they presumably have the right to decide that people espousing unpopular views, or whose academic

activity is irksome to those who run the higher education institution, should not teach. This is hardly hypothetical since several incidents at South African higher education institutions over the past few years have indeed raised charges that scholars are being driven out of the academy because those who run these institutions do not want them there. It has been argued, in fact, that the only direct attacks on the freedom of academics since 1994 have emanated not from government but from the institutions themselves. While the most recent of these cases is the dispute between sociologist Ashwin Desai and the University of KwaZulu-Natal (UKZN), the cases of Robert Shell at Rhodes University (Southall & Cobbing 2001) and anthropologist Caroline White – again at UKZN – have all prompted allegations that academics risk their freedom to teach and research if they run afoul of their administrations, either on political grounds or merely because they are found to be 'troublesome'. The corporatisation of management and the consequent diminished roles of democratic structures representing academics, such as the Senate, are also widely seen as one of the major dangers to public accountability of higher education institutions and to academic freedom in the new South Africa; we will return to this later. However, those who are concerned about managerialism's impact on academic activity are clearly concerned with threats to the latter posed by higher education institutions themselves.

The Davie formula is not, in reality, a definition of academic freedom. It is, rather, an assertion of the institutional autonomy of higher education institutions – and one which indicates clearly that it may be exercised in ways which curtail academic freedom. Rather than positing academic freedom and public accountability as opposing pressures, therefore, these examples suggest that it is institutional autonomy, not academic freedom, which is in perpetual tension with public accountability and that, among the reasons to hold higher education institutions accountable may be to ensure that they account for what they are doing to preserve the freedom of their scholars.

Why academic freedom should be held to be preserved by a formula which would allow higher education institutions to suppress ideas and those who espouse them, is less than clear. The same can be said for the implied claim that the public should be expected to pay for institutions which exclude them on arbitrary grounds and which pursue clearly sectional interests: but the Davie formula's apparently unconditional endorsement of unfettered institutional autonomy would seem to allow all of these abuses. It seems highly unlikely that either Davie or those who quote his formula approvingly intended it to act as an inoculation against demands for equity, probity and intellectual freedom. But that is precisely what it would do if not qualified by an insistence on accountability. Society is entitled not only to know whether the resources it spends on higher education are being used for purposes of which it approves, but also to insist that, where higher education institutions are acting in ways which seem to contradict public preferences, they be expected to conform to society's requirements.

A further insight into ways in which the 'classic' view of institutional autonomy can compromise

the freedom of academic endeavour is offered by Steve Fuller, who argues that, in the 21st century, universities in particular will become more "state-like":

> They will expand their governance functions across society, with the more ambitious ones taking on global governance functions, ranging from the certification of overseas degree programmes to the establishment of physical campuses on the model of 'spheres of influence'. At the same time, rank-and-file academics will cede more institutional control to the university's chief executive, whose own legitimacy will rest on the ability to insulate academics from the day-to-day need to justify their existence. (Fuller 2004: 14)

One consequence will be a growth of "Academic Caesarism" and "Academic Imperialism".

The former has, he argues, been a model in US higher education for many years – Harvard is seen as its "spiritual home". Following Max Weber, he sees it as a form of academic rule in which the head of the higher education institution acts as its "chief executive, whose own legitimacy will rest on the ability to insulate academics from the day-to-day need to justify their existence" and who believes "only someone in his or her position is competent to take decisions concerning overall university policy". Academic Caesars may also use stratagems to ensure that key interests with a stake in the university are not able to interfere with their tasks. In sum, an Academic Caesar "is not a *primus inter pares* but in a class by him- or herself", a figure in whom power is concentrated in exchange for an implicit bargain in which decisions about how the institution will operate are taken by its head in exchange for ostensibly allowing academics to acquire the resources to perform their tasks. But the ensuing ceding of power compromises the academic endeavour because it allows decisions on funding and on priorities, which may have dire consequences for academic activity, to be taken by the head of the institution. For example, funders may be interested in research but not teaching, thus "prising apart" the two functions of higher education, degrading teaching even as 'massification' of higher education ensures that the numbers of those who need to be taught grows.

"Academic imperialism", Fuller suggests, "refers to the university's historic tendency to perform state-like functions". Universities have always, he argues, "performed quasi-legal functions that would be later incorporated into the state apparatus. Perhaps the oldest is the university's policing of the behaviour of its staff and students, in *loco parentis*, in the latter case." Universities have also acted as a "second-order regulatory agency", "regulating the flow of knowledge in society" and performing functions which "substituted for … national research and education ministries". As the state grew, it delegated key functions to higher education institutions which "sometimes even exert quasi-juridical powers in local disputes" and often operate public facilities such as local hospitals and clinics. He argues that, "this tendency has a built-in expansionist character that makes the term 'imperialist' appropriate"; some regions, such as Cambridge, Massachusetts, are effectively "remade in the university's image" (Fuller 2004: 15-18).

Fuller sees Caesarism and Imperialism as trends of the future because, in his view, they follow inevitably as the role of the market increases and that of the state declines. The former is the

most likely way of dealing with the academy's need for private resources (because a "Caesar" is most likely to be able to make the required bargains with those who command resources), while the withdrawal of the state from key areas of public provision makes "imperialism" necessary.

It is not at all clear that the process is as inexorable as Fuller suggests – he provides little empirical evidence in support of his prognosis. But his analysis is important in several ways. It shows how ostensible attempts to assert the autonomy of higher education institutions may degrade the freedom of the academic community – by handing its fate over to the Caesar and those with whom he or she concludes bargains. He argues that, while institutions will, in this guise, "appear more powerful, simply by virtue of the personnel and resources concentrated in them – and the role they will play in structuring the labour force", they may "perform all of these functions reasonably well and yet fail to remain autonomous, if they take their marching orders from more dominant sectors of society" (Fuller 2004:14-15). The demand for 'classic' forms of autonomy may, therefore, render the institution and those who work in it more susceptible to external pressures.

Fuller's analysis suggests, therefore, that the trend towards reliance on the market has created a context in which institutional autonomy becomes a vehicle not only for the erosion of academic freedom but of the independence of the higher education institution. It is open to serious question whether reliance on economic power-holders is a novelty in higher education: but the point that institutional autonomy can be exercised in ways which impose constraints on the academic endeavour – even when academic dissidents are not being dismissed - is crucial to our understanding of the distinction between institutional autonomy and academic freedom. An essential point flowing from this analysis is that higher education institutions are not homogeneous – administrations, academics, students and workers all have potentially differing interests and, if allowed to do so, will compete to express their vision of the purpose of the institution and what it should do. "Caesarism" does not obliterate the distinction – the Caesar acknowledges that she or he is accountable to differing constituencies. But it does seek to limit the role of the constituencies to a largely passive acceptance and occasional rejection of the actions of the institutional head. And it raises a crucial question – on whose behalf is institutional autonomy demanded? In most if not all cases, the demand may not be for the autonomy of the institution so much as for the autonomy of those who have acquired the power to present their own perspective and concerns as those of the entire institution. And, as we shall see, academics at some South African higher education institutions are among those who suggest that institutional autonomy is currently being used to silence their voice. The right of an institution to run itself as it pleases may all too easily become the right of those who manage it to run it at the expense not only of society but of other interests within the academy.

One other important implication of Fuller's treatment of "academic imperialism" is the reality that higher education institutions have never been insulated from the state – or society. They have been an integral part of society performing public functions. This makes the notion that they can somehow be isolated from society untenable. Institutional autonomy is thus a relative

concept as there is no society where higher education institutions enjoy absolute autonomy. As Hall (Sall *et al* 2005:10) argues:

> … [the] issue of autonomy is a question of degree. No university is free of some state regulation, and no higher education institution can be effective if it is over-regulated. Autonomy has to be understood as conditional, qualified by the needs of both the state, and by the teachers and researchers who need effective level of freedom. (Cited in Sall *et al.* 2005: 10)

Academic freedom and institutional autonomy are, therefore, not identical. To draw on Robert Berdahl:

> Academic freedom is that freedom of the individual scholar in his/her teaching and research to pursue truth wherever it seems to lead without fear of punishment or termination of employment for having offended some political, religious or social orthodoxy. (Berdahl 1990: 172)

This may be protected by or eroded by higher education institutions. But protecting institutional autonomy does not automatically safeguard academic freedom and it could be argued that, among the tasks for which higher education institutions should remain accountable, is their role in eroding or preserving academic freedom. However, if institutional autonomy is viewed in a forward-looking frame, based on the concept of public universities as an "innovation commons" (Hall 2005), it may not necessarily undermine academic freedom. This implies that the context in which institutional autonomy is pursued may shape whether or not it enhances academic freedom.

It must be stressed at this juncture that academic freedom should not be understood narrowly as only "the right of scholars to pursue their research and teaching and to publish without control or restraint" (Columbia Encyclopaedia, cited in Sall *et al*. 2005: 2) but more broadly to include the right of students to study the courses of their choice.

3. PROBLEMS OF ACCOUNTABILITY

The issue is, of course, far more complicated than this.

First, higher education institutions are one of a sub-set of public institutions which require independence if they are to fulfil their public function. Among purely publicly-resourced institutions, the judiciary would probably be the closest analogy along with those institutions, such as those established under Chapter 9 of the South African Constitution – the Public Protector and the Human Rights and Gender Equality Commissions, which hold government (and at times others) to account on citizens' behalf. Among institutions which may be publicly or privately resourced, the media, mentioned earlier, come to mind. In all these cases, independence from public regulation is held to fulfil a public purpose – judges cannot dispense justice if they are told how to weigh the evidence, watchdogs cannot watch if they are told how they may keep guard. And teachers cannot impart knowledge or researchers discover it if they are permitted to teach and investigate only that which current mores consider acceptable. It is trite to point out that many of the laws of natural science were discovered and taught contrary to the dominant norms of their time, and that teaching which imparted only that which the temper of the times permitted would deny students much knowledge to which they are entitled. Intellectual independence is, therefore, essential to the academic enterprise and thus to its public function. Dewey, therefore, was entirely consistent when he argued that the tenure system, insulating academic faculty who attain it from dismissal for falling foul of the authorities, both those in the state and those in the academy, is an essential protection of the 'publicness' of higher education (Hickman & Alexander 1998).

It is, of course, this reality which prompts some in the academy (and, indeed, in the judiciary and the media) to posit a notion of accountability which restricts the 'public' to which scholars are accountable, to their peers. Peers alone are held to command both the expertise and the commitment to intellectual activity to qualify them to hold the academy accountable in appropriate ways. Thus BS Romzek talks of professional rather than public accountability: "Professional accountability systems are reflected in the work arrangements that afford high degrees of autonomy to individuals who base their decision-making on internalised norms and appropriate practice" (Romzek 2000: 26). Since it can be assumed that adherents of this view believe they are serving society's interests, they imply that scholarly activity does serve society, and that it does so best when it is accountable to those whose expertise enables them to discern quality and thus to tell whether it really is helpful to society. Thus a leader of an academic staff association argues that, while what academics teach should be relevant to society, the content of teaching should not be regulated by the state but should be defined by peers. Universities should be trusted to define the content of their teaching and research: there should be no interference on what they do or do not teach.[1]

More generally, Carl Friedrich argued in 1940 that, because of the complexity of the issues faced by non-elected officials in general, they "required more highly trained technical competence"

and that only one's fellow professionals, *not the public and elected representatives*, could effectively judge the activities and policies of non-elected officials. He argued that elected officials are ill-suited and ill-equipped to hold non-elected officials accountable. In his view, an action by an official will be deemed unaccountable and irresponsible if it is "adopted without proper regard to the existing sum of human knowledge concerning technical issues involved" (cited in Dunn 2003: 64). Clearly, here, consultation is required only with technical knowledge, not with fellow citizens. A separate objection to accountability to elected officials by higher education institutions in particular, is that governments are far too remote from higher education institutions' processes and so could not come to grips with their internal workings sufficiently to ensure effective accountability (Sanchez-Sosa and Lerner-Febres 2002). This, of course, remains a denial of the principle of public accountability because it clearly seeks to exclude the public from the exercise of accountability.

In contrast to Friedrich, Herman Finer argued that non-elected officials, including faculty and higher education institutions' administrators, should be accountable to elected officials:

> The servants of the public are not to decide their own course; they are to be responsible [i.e. accountable] to the elected representatives of the public, and these are to determine the course of action of the public servants to the most minute degree that is technically feasible. (Cited in Dunn 2003: 65)

But, while the demand for autonomy – with accountability to peers alone – contradicts democratic theory, it does highlight a real problem: that an overly rigid application of the principle of public accountability may destroy intellectual activity.

A second source of complexity is the reality that the 'society' or 'public' to which institutions are accountable is not homogeneous and that its will is not easily ascertained: "the public accountability of higher education institutions is made more difficult because there is no united public"; "the absence of a social consensus about the purpose of higher education institutions is one of the greatest dangers to their public accountability."[2] Often, demands for higher education institutional accountability assume that institutions must account to the government, which is assumed to speak for society (SASCO 2006). Where that government is, as in post-apartheid South Africa, elected by general franchise, the popular mandate it has received at the ballot box is assumed to confer on it the right and capacity to interpret society's wishes. Clearly, public accountability means that higher education institutions must be not only socially relevant but also responsive to the preferences of society. But since society is not homogeneous, and therefore will express a diversity of views, the preference of the majority must prevail. While this does not mean the curtailment of the rights of minorities, it does mean that an accountable institution, such as a higher education institution, must be responsive to the needs of the majority – who, in South Africa, are predominantly black. Democratic government is, therefore, justified in ensuring the public accountability of higher education institutions.

There are limits to this right: the Constitution, by guaranteeing academic freedom, ensures that the state cannot dictate what higher education institutions can and cannot teach. And even

staunch advocates of public accountability may need to acknowledge that the academy best meets public goals when accountability to peers as well as society is respected (since the latter may well mean enhanced quality). But even here the limit is not absolute: higher education institutions cannot teach to promote the values of white superiority, or to cast aspersion on any racial group or gender category. They are accountable to elected officials for the broad direction of their activities but not for the details of what they should and should not do. "There is a tension between public accountability and scholarly accountability. A balance between them is needed"[3]. Nor is there a necessary contradiction between academic excellence and public accountability: "Accountability is presented by the government as becoming more vocational but that is not the prime role of a university. We need to excel in teaching and research – and we need to report to society on how we have striven for these commitments".[4]

While this argument does assert the broad right of the government to hold higher education institutions accountable to broad national values, however, it does not necessarily support the claim that, when government intervenes to ensure accountability, it directly reflects the will of the majority. We have noted that society (like higher education institutions) is not homogeneous – groups with differing interests and values will differ on the role they see for higher education and in their view of what should be taught and how it should be taught. Neville Alexander is thus careful to stress that higher education institutions are accountable "not only to the collegium but also to *various constituencies* beyond its walls" (Alexander 2003: 181 [our emphasis]). Expanding on this recognition of differing and competing sources of accountability, he notes that: "…the answer to the question of who the constituencies are and what power they have to influence what goes on inside the walls is crucial. This mostly inarticulate question is the reason for the turmoil and the angst that has gripped university establishments all over the world" *(ibid.)*. In some cases, it may be possible for higher education institutions to account to a variety of constituencies without impinging on the interests of others. But in most cases, the question of whose interests and goals are to be served affects priorities and the use of resources, and a choice is therefore required. Who institutions should account to is, therefore, in itself a crucial question. It is not one which can be resolved purely by an electoral majority.

Voters are not required, when selecting a party, to endorse every policy position it adopts. Since parties inevitably aggregate policy positions into broad platforms, voters are usually obliged to choose parties whose positions correspond closest to theirs, not those whose every position mirrors their preference (Riker & Ordeshook 1968). Nor is every decision a government takes catered for in an election manifesto: voters who support a party cannot therefore be assumed to have approved of positions and policies on which they had no opportunity to pass judgment. Because a vote for a particular party does not amount to support for all its policies, and it is not possible to know which policies the electorate was endorsing and which it was rejecting, the fact that a governing party has won an election cannot, therefore, be assumed to denote automatic public endorsement for any particular policy which it adopts. There is, therefore, no reason to assume that accountability to government is automatically accountability to the public, or to society.

Accountability to government often means that account must be given not to the elected representatives of the citizenry, but to the executive which governs on its behalf – the Cabinet and the public service. While 'textbook' political theory holds that the executive governs in a democracy only on behalf of and at the pleasure of the elected legislature, it has long since ceased to be plausible to argue that this is how democratic systems work in practice. The extent to which legislatures are able to ensure that the executive accounts to them varies between democracies and sometimes within them. The executive's superior access to information (compared with the legislature's access, and not necessarily with what it needs to know to govern effectively), and the fact that it, not the legislature, is routinely in contact with the functions of government, make a degree of executive autonomy from the legislature a feature of all democracies. Certainly, claims that the executive is simply acting on behalf of the expressed will of society are everywhere untenable. Unless the legislature is actively involved in overseeing the executive's attempts to secure accountability, and the citizenry is directly engaged in overseeing the legislature's attempts to do this, accountability to government cannot be assumed to entail accountability to society. Indeed, if it is assumed that there will always be cases in which that which serves the public is threatening to the government, there will be cases in which accountability to government may obstruct public accountability. (Critical research into, and analysis of, government actions by the academy is clearly in the public interest, for example, but may well be seen as threatening by governments.)

In principle, then, public accountability denotes an obligation to account to society, not government alone: but how to account to society? As noted above, society does not speak with one voice and its preferences are not normally available, both because most citizens do not join organisations which participate in public policy debate and because, where organised groups of citizens do express preferences, it is not possible to determine with certainty who speaks for the minority and who for the majority (Friedman & Reitzes 1995). 'Accounting to society' might, therefore, entail accounting only to a small, unrepresentative, section.

A key question here is whether society, or, more accurately, those social actors who are able to engage with higher education institutions on society's behalf, are capable of holding higher education institutions to account. Views which see public accountability as a threat to academic freedom often cite the specialised nature of the academic enterprise as a reason why accountability should be limited – the obvious rationale for accountability to colleagues only is that only peers know enough about the issues to hold scholars to account. This may exaggerate the specialised knowledge required – there are clearly aspects of higher education institutions' operations over which citizens who know nothing of intellectual activity can exercise judgement. One does not, for example, need a degree to hold views on whether agriculture is a greater social priority than the development of urban industry. But it would be naïve to ignore the reality that aspects of academic activity do require specialised knowledge which most citizens lack. This means not only, as academics suspicious of public accountability insist, that its exercise may not be informed enough to ensure that the public interest is well served. It means also that higher education institutions may command sufficient information – and may be able to project enough of an aura of expertise – to ensure that they are not held accountable, even where processes of engagement which seek to hold them to account are in place.

Government, of course, also requires capacity to hold higher education institutions accountable, which it may not have. Thus a basic element of accountability is the financial accountability of institutions and the prevention of abuses such as conflict of interest. However, an educationist argues that the national education department is not scrutinising the annual financial reports of institutions with sufficient rigour and is not requesting reports which would enable it to monitor conflicts of interest.[5] The clear implication is that, if it is unable to perform basic accountability functions, more ambitious attempts to shape the nature of higher education may be misplaced, at least until sufficient capacity exists. Jonathan Jansen strikes a similar note when he complains of the gap between "finely honed planning positions such as those evident in the *National Plan on Higher Education*" and the implementation of government intentions: "… apart from the blunt instrument of state financing, there is a very weak theory of action to translate the noble goals of policy or specific targets set in planning into institutional reality." For example, "one of the most sacred commitments of its policy – to dramatically increase participation in higher education" was compromised by caps on student numbers (Jansen 2004: 3-4).

A senior official acknowledges that the national education department is not necessarily yet in a position to say whether higher education is meeting public goals better than it did in the past. This acknowledges that a key aspect of the regulatory capacity which is needed to achieve greater accountability is the ability to monitor and evaluate policy to ensure that it is achieving the stated goals – and that capacity to do this is at present well below what is required. He notes that regulatory capacity is limited by staffing constraints, such as the fact that the Department of Science and Technology (DST) has more senior staff at its disposal than the Department of Education (DoE) has available to regulate higher education. The department thus does not rely on "dedicated people who know the [higher education] institutions like the back of their hands" and looks "only at system issues. Some countries have a dedicated higher education ministry; we do not and must make do with the resources available to us."[6]

Capacity constraints can be more deep-rooted. Even the best resourced government department may be unable to ensure that a public purpose is achieved, simply because achieving the goal is difficult and it has no monopoly of wisdom on the issue: "We don't have the capacity to tell higher education institutions how to do equity. Current attempts to address racial imbalances are focusing on quantity, not quality. Students are being enrolled but many do not cope because quality is not being taken care of: society is no longer buying the transformation model currently on the table. But what if we don't have the capacity to ensure the change we want?"[7] An educationist argues that, while the government has set policy and has created a framework for the transformation of higher education institutions, these have been limited to the questions of equity and efficiency. As a result, the transformation of the curriculum, research and institutional culture have been left largely unattended: "Government has limited leverage over the institutional and cultural transformation of higher education institutions."[8] In these cases, effective regulation is possible only if government is able to work with higher education institutions and a variety of other actors: "We need a social contract between higher education institutions and government. I don't believe it is ever possible for a bureaucrat to know the right decision for any higher education institution"[9].

A persuasive analysis therefore suggests that crude, restrictive forms of government intervention to secure accountability are most likely when governments lack the capacity to ensure it in a way which would nevertheless preserve the essentials of academic freedom (Moja, Cloete & Olivier 2002). After all, if governments could get higher education institutions to do what they want them to do without overt compulsion, they no doubt would do just that. At least some resistance to government attempts to ensure accountability could, therefore, be a reaction not to the principle of a government role, but rather to the way in which it is exercised when sufficient capacity to ensure it without compulsion is lacking. As implied above, if government seeks to ensure public accountability without the required capacity to do so, intervention in the running of higher education institutions will not ensure that public policy goals are achieved. Rather, it may mean simply that their smooth running is compromised without any gains in ensuring that they achieve the goals which the society expects of them. In principle, therefore, government intervention in higher education will not ensure greater accountability unless the capacity to do this exists and intervention should be undertaken only if the required capacity is available.

It is also important to note that the national education department is not the only arm of government with which higher education engages. As public entities, higher education institutions are also relevant to the work of other departments – such as the Department of Labour (DoL) which monitors compliance with employment equity targets. This clearly complicates the relationship. While it illustrates again the degree to which higher education is integrally part of society and cannot hope to insulate itself from social pressures, the capacity problem is likely to be greater in engagement with other departments which are not meant to know how higher education functions and what is required to ensure that it fulfils its public purpose. This is, of course, more likely to be so where the engagement is not simply routine or mechanical but where it has significant implications for institutions' ability to fulfil their purpose. The DoE says that in these cases, it does seek to 'protect' higher education institutions from intrusions which may prevent them fulfilling their purpose.[10] While this protection may be useful to higher education institutions, in principle it is a collective government function to ensure that regulation is enforced in a way which ensures that higher education is able to play the role envisaged for it (a goal which, we will argue below, will be determined in engagement between higher education institutions and society).

4. CONCEPTUALISING ACCOUNTABILITY

The concept of accountability refers to the relations of power between the conferee and the conferred. Though initially it was used in relation to elected public officials, it has increasingly been applied to non-elected officials including judges and office bearers in higher education institutions. Accountability concerns relations of power since it seeks to establish an obligation by those who hold power, to render account to those on whose account it is held.

The responsiveness of higher education institutions to public preferences becomes, therefore, a key element of accountability: The ultimate aim of accountability is that "public policy … remains responsive to public preferences" (Dunn 2003: 61). A key question therefore is whether or not higher education institutions' actions meet the needs of the public – or more accurately, since it is not homogeneous, most of the public. It has thus been argued that we can call a public policy or action "irresponsible if it can be shown that it was adopted without proper regard for existing preferences in the community, and more particularly its prevailing majority" (Friedrich, cited in Dunn 2003: 64). Again, in a society such as ours, characterised by poverty, under-development and a high rate of HIV/AIDS, higher education institutions will be considered irresponsible if they fail to address the developmental challenges facing the new South Africa and, therefore, fail to demonstrate their social relevance. This suggests that higher education public accountability is synonymous with social responsiveness. But it needs also to be stressed that responsibility connotes empowerment of officials: they cannot be asked to implement public preferences unless they enjoy the means to do so.

Insisting that higher education institutions account to the public begs the question of how precisely accountability is to be understood and in what ways it is to be exercised. Neither is necessarily self-evident.

Very broadly, available literature on public accountability tends to propose either 'narrow' or 'broad', and 'soft' or 'hard', notions. These formulations refer generally to public official functions rather than to higher education institutions in particular, but are applicable enough to be useful to this discussion.

The 'narrow' version relies on the literal sense of the term:

> In its most literal sense, the term accountability means little more than the 'ability' or the 'possibility' that someone or something can be 'accounted for' or 'counted up'. Under this minimalist understanding, all that the accountability of government would imply is the most basic form of bookkeeping. (Ackerman 2005: 3)

This notion implies, of course, that an accountable individual or institution is simply required to show that public resources have been used for the purposes intended and that they have not been misappropriated. It is clearly consistent with a view which seeks to insulate higher education institutions, or any other institution, from society.

The 'broader' notion, therefore, does not seek to limit the accounting: accountability is defined as "answerability for one's actions or behaviour" (Dwivedi 1985; Harmon 1995: 25-26). Since this paper argues that higher education institutions have a responsibility to society which stretches well beyond the need to demonstrate that money has not been misappropriated, the 'broad' version is adopted here.

The 'soft' notion refers to "the obligation owed … to the public, the ultimate sovereign in a democracy, for explanation and justification …. Accountability is the price citizens extract for conferring substantial… discretion and … responsibility" (Banfield and Uhr, cited in Dunn 2003: 61).[11] The key terms here are "explanation" and "justification": those who are accountable are required to tell society what they are doing but the obligation may go no further than that. If accountability leads to changes in the way in which the institution conducts itself, these will proceed from the suasion exerted in open debate and discussion, from the desire to appear to act reasonably and fairly, not from the overt exercise of compulsion. Perhaps the most appropriate analogy is the earlier reference to the media, who might reject being told by society what they may or may not report, but might nevertheless accept a need to explain what they do and why. Similarly, the judiciary might insist on not being instructed by society but might acknowledge a need to engage with it, encouraging public debate on judicial decisions and entering into a dialogue on their merits.

The 'hard' version assumes that justification and explanation are not enough – that there is no point in insisting that society be accounted to if it has no right to act when it feels the accounting is inadequate. Thus Robert Behn asserts: "Those whom we want to hold accountable have a clear understanding of what accountability means: Accountability means punishment" (cited in Ackerman 2005: 3). In this view, to be accountable is to be open to sanctions if those to whom account is made think this necessary. It may also mean that public institutions which meet the accountability requirements can be rewarded by citizens and the state. While the state can offer financial incentives, citizens can reward institutions through the show of support, which can be gauged through public opinion – public sentiment is thus an important tool to enforce higher education institutions' public accountability in a democratic order. Also, for our purposes, public accountability of higher education institutions means not only society's right to know what higher education institutions are doing, but its prerogative to get them to do other things if it disapproves.

These understandings are not necessarily mutually exclusive. A reliance on 'soft' accountability alone is unlikely to be possible in practice, given the acutely public nature of higher education: the fact that higher education institutions are constituted by statute illustrates that they will always be subjected to a degree of 'hard' accountability through law and regulation. Accountability which encompasses reward and punishment is, it is argued, the best "accountability system" (Ackerman 2005), for it encourages good behaviour – responsiveness to the public – and punishes unresponsiveness to public preferences and needs. In this view, accountability mechanisms can serve as a constraint on arbitrary power (from within and without), raise and sustain the quality of performance, and act as a regulatory device (Trow 1996). Conceived this way, public accountability may not run counter to academic freedom and

may, in fact, be an important and effective mechanism to protect individual faculty from higher education institutions' administrators.

But, as we will see later, the need to preserve intellectual independence speaks to a need to take seriously forms of 'soft' accountability. Where an institution clearly must account to society, but incursions into its independence are likely to have undesirable consequences, 'soft' accountability approaches, which rely on ensuring a continuing dialogue between the institution and society, may well be more appropriate than direct intervention to secure public accountability.

4.1 Routes to public accountability: the market as problem[12]

The literature also broadly suggests three routes to accountability – two of which are implied by this discussion and one which introduces an important dimension which we have not yet fully discussed (Di Gropello 2004). First, there is the route of direct accountability to government, which can consist either of straightforward regulation or of some sort of contract, implicit or explicit between institutions and the government. Second, there is citizen voice. And third, there is 'citizen choice', a euphemism for regulation through the market.

Clearly, as we have already suggested, problems are raised by the first two. Direct accountability to government may exclude society, ensuring that accountability is not public. Citizen voice potentially democratises accountability, ensuring that society participates directly. But only a section of society may be holding higher education institutions accountable – and it may not enjoy the capacity to do even this effectively and appropriately. In one view, therefore, public accountability is best ensured not by the state or by direct citizen control, but by the market. If, it is argued, citizens enjoy choice between a range of institutions, they can signal which higher education institutions are meeting their needs by enrolling in them, ensuring that only those institutions which serve the needs of many citizens will flourish. In response to the argument that this model would ensure that higher education became again what it once was – the preserve only of the wealthy – advocates of this approach promote remedies such as voucher systems to ensure that citizens are subsidised by the state and can therefore attend the higher education institution of their choice. Similarly, it is suggested, a tortuous and inconclusive debate on what curricula and teaching programmes should be funded can be resolved by allowing society, acting through the market, to choose what it wants higher education institutions to do.

The first difficulty with this approach is that emphasis on 'consumer choice' narrows the public to which higher education institutions should account to persons seeking a higher education. In reality, what higher education institutions do and how they do it, affects a far wider range of actors – indeed, implicit in the notion of public accountability is the proposition that everyone is affected by the activities of higher education institutions, since they are meant to serve a public purpose which holds implications for the entire society. To reduce higher education to a direct transaction between those who provide it and those who receive it is to exclude most of those affected by it from a role in shaping it.

The second proposal, that the market decide the academy's priorities, is, according to much of the literature – and authors writing from a range of ideological positions – a growing trend in higher education funding in many parts of the world. It is widely seen as a significant threat to academic freedom and thereby to public accountability.

According to Gillian Evans, corporate sponsors of higher education institutions often seek to

> retain control of the direction of the research and even impose a new set of staff relationships … The sponsor can control intellectual property rights and even the right to publish the projected results. It can prevent the scientist from sharing research at an international conference and even stop his or her work if the funder doesn't like the way it is going. The old expectation was that scientific expertise was global in its reach and exchange … Today, the corporations are buying up this expertise, leaving few voices to challenge what they are telling the world. (Cited in Zeleza 2003: 167)

This approach also changes the way education is viewed. It is no longer a public good but a means of equipping students to secure employment and with the competency to contribute to economic competitiveness. In this respect there is a close similarity to Dewey's description of America's schools in the late 19th century and the South African higher education system in the early part of the 21st century:

> While … the development of personality, etc. [may be regarded] as the end aim of education, the great majority of those that pass under the tuition of school regard it only as a narrowly practical tool with which to get bread and butter enough to eke out a restricted life. (Dworkin 1959: 48)

This is what Sall *et al.* (2005) refer to as a "utilitarian" conception of higher education. Indeed, it could be argued that a new form of colonialism has emerged in the information age: the market has colonised the academy. The primary purpose of the latter has changed from public scholarship to serving the needs of production and exchange. Equally importantly, despite talk in theory of voucher systems, access to higher education in this model is based on ability to pay – and many people, especially in the developing economies, are denied access to higher education institutions. The commercialisation and commodification of higher education institutions also change the nature of the social contract between the state and citizens: the latter are perceived as consumers, users and clients whose relationship to higher education institutions is monetised, rather than as rights-bearing citizens.

Thus Moja and Cloete have identified as the main current function of education the production of potential employees and employers, not citizens:

> Higher education has two important functions in the knowledge economy. The one … is to produce medium-skills level professional graduates for the professions in the service sector; the other is to produce highly skilled knowledge producers for high-level innovation. (Moja & Cloete 2001: 244-245)

Once again Dewey's words are apt to the South African situation in particular and the African context in general. He complained that academics tend to

> …live as if economic forces determined the growth and decay of institutions and settled the fate of individuals. Liberty becomes a well-nigh obsolete term, we start, go, and stop at the signal of a vast industrial machine. Again, the actual system would seem to imply a pretty definitely materialistic scheme of value. Worth is measured by the ability to hold one's own or to get ahead in a competitive pecuniary race … it is not so much … functional urgencies of life that determine how favorable this physical necessity shall be, but extraneous money … The philosophy appropriate to such situations is that of a struggle for the existence and the survival of the economically fit. (Dewey 1999: 6)

Implicit in the above is that the marketisation of education is a threat to human liberty and freedom, which both a Vice-Chancellor and an academic staff association representative identified as the higher values that higher education institutions should seek to promote.[13] Colonialism and apartheid were once the dominant forms of exclusion and denial of access to education in South Africa, undermining the attainment of these higher values. The observation of the former President of Namibia, Sam Nujoma, was equally relevant to the South African situation: "Education in our country used to be enjoyed only by a privileged few, whom apartheid and colonialism considered worthy of it. In other words, it was not the right of every citizen to have access to learning and its benefits" (Nujoma 1993: i). Today, the market is the dominant form of exclusion, reinforcing racial inequalities. There thus seems to be a high degree of academic agreement that marketisation of higher education institutions reduces, and does not enhance, academic freedom and public accountability, by subjecting higher education institutions to the requirements of corporations rather than citizens or academic peers. Importantly, marketisation is reshaping higher education institutions, stressing corporate values and thus eroding their 'publicness'.

It is precisely this concern which lies behind much criticism of post-apartheid government intervention (Jansen 2004; Higgins 2000) – and similar complaints in countries such as the United Kingdom (Harvie 2000). Given the political context in which the post-apartheid government took office, we might expect 'transformation' – which seeks, amongst other imperatives, to ensure that higher education institutions become more racially representative – to be the key spur to government intervention and the chief cause of complaints that the autonomy of higher education institutions is being eroded. But, while concerns about pressures for rapid change to the demographic composition of faculty and student bodies are expressed by some higher education institutions,[14] an impressionistic examination of the debate suggests that they are not the major source of complaint. Rather, it has been the attempts of the government and institutional administrators to meet the (presumed) needs of the market economy by tailoring curricula and subject choices to its needs, prompting interventions in what will be taught and how teaching will occur, which have attracted most of the discontent, especially among faculty and civil society organisations. This is also said to have enhanced new managerialism in the academy in which priorities are set by administrators and managers responding to the market, not scholars. "The rise of a new managerialism as the principal mode of governance of higher education institutions is undermining not only democratic structures such as Senates and Councils but also hampers their public accountability".[15] An educationist believes a trend towards outsourcing by higher education institutions has further impeded public accountability by ensuring that they are not directly accountable for performing some of their functions.[16]

Elsewhere in Africa, intervention by the World Bank has ensured that funding for the humanities – save for economics – has been curtailed dramatically on the grounds that these disciplines are not relevant to society's current needs. The effect, inevitably, has been to change profoundly the manner in which many African higher education institutions are compelled to structure their teaching. Even in the affluent North, complaints that the demands of the market are exerting an increasing influence on academic activity are common. In societies in which business commands sufficient resources to fund higher education activities, a key source of the rise of the market as an influence on higher education is the increasing gap between the funds required to run higher education institutions and the resources which are made available by governments. Whether this trend is seen as a consequence of slavish government obedience to the market or of 'massification' (the expansion of higher education to people who would not previously have been able to afford it), its effect is to increase the academy's dependence on corporate funding; and, perhaps, to enhance the power within the university of administrators who are responsible for revenue generation and distribution. All this occurs at the expense of academics and the structures of academic governance, such as Senates and faculty boards, through which they have traditionally exerted influence.[17] While a university administrator argues that this is a consequence of a style of leadership at some institutions (rather than a general trend),[18] a widely-held view sees it as a consequence of deeper and more general patterns of institutional governance in South Africa.

Discussion of whether these trends are the reversible consequences of policy choices or an inevitable consequence of current trends is beyond the scope of this paper. For our purposes, it is necessary only to stress that increased market influence has prompted a diminution of public accountability by placing severe pressure on the academy to respond to the particular needs of powerful corporate interests rather than the general needs of society. This could be reversed only by vastly enhanced public funding which would reduce the need to depend on corporate funds. To the extent that governments feel compelled to force higher education institutions into the marketplace in an even more urgent search for funds, public accountability is reduced – regardless of the formal mechanisms used to enforce it. We will return to this issue below.

4.2 Squaring the circle?

The preceding discussion helps to crystallise the challenge which faces an attempt to propose a framework for ensuring that higher education institutions are both publicly accountable and able to act as platforms for the exercise of intellectual freedom.

Such a framework would need:

- to ensure that higher education institutions account to society but in such a way that teaching and research remain free from controls which could degrade them (including controls imposed by the market), ensuring that they do not achieve the socially desirable purposes on whose behalf the controls were imposed; and
- to offer an approach to accountability which recognises that accounting to society cannot be accounting to government alone, but which also acknowledges both the normative and practical difficulties of attempting to ensure that higher education institutions are accountable to society, not merely to the government.

A host of dilemmas confront such an attempt. Accountability implies that society is entitled to insist that higher education resources are devoted to disciplines and courses which meet its development needs. Many citizens might feel, for example, that devoting funds to the teaching of classical Greek, fine art or literary criticism, in a society in which many people are in urgent need of basic nutrition and health care, is a luxury which society cannot afford. But notions of what is a 'luxury' and what a necessity differ – humanities courses, which may seem to some to abrogate the principle of public accountability by enabling academics and students to indulge their intellectual fancies at public expense, may be essential to the building of capacity required to manage the economy and society. There is copious evidence that education in the liberal arts, if it hones capacity for creative and critical thought, may not be a luxury but an essential precondition for material progress. But does that apply only to philosophy and political theory; or to literary criticism and the study of ancient cultures? The line between irresponsibility and independence is often purely in the eye of the beholder. It is hard to imagine a formula which could plausibly guarantee that this tension is resolved in a way which both does justice to the imperatives of accountability and protects the academic enterprise.

Nor is academic freedom ever unqualified. For centuries, African people were projected as an inferior race, with low mental capacity. These assumptions littered history books and were taught in South African higher education institutions. Can such history still be taught in a democratic dispensation in the name of exercising 'academic freedom'? While there may be widespread agreement that academic freedom is not a licence to spread bigotry, there will always be disagreements – in less obvious cases than that cited here – on where bigotry ends and truth begins.

Similarly, the notion of public accountability should not be limited to accounting to government alone – even where it is democratically elected. Since people in government have interests of their own and cannot always be assumed to represent the public, it is highly likely that accounting to government alone will curtail rather than enhance public accountability. But government remains the only institution in a democracy which can be said with any certainty to represent majority sentiment (since no definitive test exists to determine the public support of citizens' organisations), and to enjoy the possibility of achieving capacity to regulate higher education institutions in a manner which will ensure effective public accountability. The extent to which participation by citizens' groups is allowing actors who themselves are unaccountable to presume to speak in society's name, and the degree to which it is democratising and broadening public accountability, will depend on empirical circumstances, not on a watertight formula. And again, consensus on whether each empirical example is enhancing or impeding accountability is likely to prove elusive.

There are other examples. Suffice it to say that it is impossible to derive any formula which will govern the relationship between higher education institutions and society in such a way as to guarantee avoidance of unintended and undesired consequences. While the goals proposed in this section remain at the centre of the concern for a defensible accountability regime, the search to actualise them requires a conceptual framework, but not an operational formula.

5. THE FALSE MESSIAH: THE SEARCH FOR CERTAINTY

The preceding section has suggested that attempts to develop a framework which would resolve the tension between the need to ensure that higher education institutions remain accountable to the public, and the requirement that intellectual freedom be preserved, are exhausting and ultimately futile.

More importantly, perhaps, it could be argued that the search itself is certain to obstruct the quest for accountability and freedom. These can be preserved by a recognition that the tension cannot be resolved, but can only be negotiated continually. "The construction of accountabilities, the definition of the rights and duties that flow from relations of accountability, is of course a political process driven by broader economic and political agendas" (Newell & Bellour 2002: 3). Since these change, so too do the boundaries between public accountability and academic freedom.

As Newell and Bellour have argued, this means "active accountability … which is continually (re)negotiated, where demands have to be vocalised and where closure is not reached on how accountability should be exercised and on whose behalf" (Newell & Bellour 2002: 6). The public accountability of higher education institutions should be seen as akin to what they call "social accountability", a "pro-active process by which public officials inform about and justify their plans of action" (Newell & Bellour 2002: 12), prompting public sanction or disapproval. The process is continuous and an integral part of a democratic order.

If it is accepted that higher education institutions are accountable to the public and that intellectual freedom is both a democratic right and a social necessity, where are we to draw the line? When does the demand for accountability become oppressive? When does the insistence on freedom become a self-indulgent abdication of social responsibility – a profound form of 'irresponsibility'? Higher education institutions in our democratic order have a duty, in the view of most citizens, to alter the demographic composition of their student bodies, administrations and faculty – failure to do so would be seen as an insensitivity which would erode the legitimacy of higher education institutions in the eyes of the majority of the population. But how far should 'transformation' go and how should it be implemented in detail? The answers will depend on personal preference and on the perceived need of time and place.

In post-independence Africa, for example, it has repeatedly been argued – by intellectuals rather than state officials – that higher education ought to serve the quest for democracy and development in societies whose colonial and post-independence experience has left them crippled by poverty and popular powerlessness. But who decides what democracy and development require? On the first score, is democracy the right of government elected by all the people to hold higher education institutions accountable in the name of the state? Or the right of persons engaged in intellectual activity in higher education institutions to be protected from the predations of the state? Or the right of 'civil society' associations to speak for society rather than for power-holders in government? And what is development? What are the relative roles of

state, market and society in this activity? The response will, of course, depend on who is answering and on the time and place of the answer.

One consequence is that it is usually easy to demonstrate that any particular formula, if stated purely in terms of abstract principle, can be used to achieve precisely the opposite outcome to that favoured by the person proposing it. A left-wing intellectual might find the notion of higher education institutions' accountability to democratic development appealing because this means that the institutions' resources can be placed at the disposal of social activists seeking greater equity or can be harnessed by a 'developmental' state to address the needs of the grassroots poor through participatory social programmes. But what if the state interprets its mandate to enforce accountability for democratic development by insisting that it alone can determine who may teach, what they teach and how it is taught, because all other actors represent only a part of society, while it represents the whole? And what if it chooses to exercise this power by withdrawing funding from the social sciences and allocating it to courses fostering business development because, in the prevailing government view, only the market can guarantee development?

These are not hypothetical cases. In post-independence Africa, the state has repeatedly intervened in the way described here, purportedly to ensure national development, prompting a degrading of intellectual freedom vigorously protested by scholars who themselves endorse public accountability (Diouf & Mamdani 1994). And it has already been noted that, in recent years, African states, with the international financial institutions, have used developmental rhetoric to deprive most of the human sciences of resources, while, in the North, left-wing intellectuals complain of the increasing use of government authority and resources to turn higher education institutions into adjuncts of the corporation (Harvie 2000). Recent experience should have brought home forcefully to the intellectual advocates of public accountability how readily that principle can be used to ensure that higher education institutions subject themselves not to the popular will, but to holders of economic and political power.

The problem lies not with the inadequacy of any given formula but with the assumption that any imaginable formula which seeks to cast in stone a balance between accountability and freedom can resolve the tension. Because the definition of the public good is never settled, the demand that higher education institutions serve that good will inevitably produce very different outcomes, depending on who is deciding what the formula means in detail. And inevitably, the balance of power in society at any given time will determine who is interested in determining the relationship between higher education and society and who among them has the power to do so.

But it is not only those who seek to pierce the barriers between academy and society who might turn to a formula in the hope of casting the desired relationship in stone. Those who seek to maintain the barriers are equally likely to rely on formulae – and to face disappointment when

these prove counter-productive. Their problems are normative and, perhaps more importantly, practical and strategic. On the first score, those who seek to minimise external influences on the academy, on the assumption that higher education institutions best realise their duty to society when they are left alone to do what they alone know best, often also oppose the influence of corporations and university administrations on the academic endeavour (Higgins 2000). But if the academy is left alone to account to society by accounting only to its peers, then who is meant to protect it from the incursions of corporate and university bureaucrats? An abstract formula insisting that the state and society cannot impose accountability on higher education institutions from outside cannot defend the academy from those who invade its isolation in order to yoke it to the service of managers within and without.

More importantly, a formula which seeks to prevent society from imposing its notion of accountability on higher education institutions by placing immutable limits on encroachment is likely to destroy that which it seeks to protect – the independence of the scholarly community. If the line between accountability and autonomy will be drawn at any given time by the prevailing political balance of power, it follows that no attempt to insulate higher education institutions from that balance is likely to succeed. And since, to paraphrase Stalin, society, not the academy, has the battalions,[19] the result of ignoring society is likely to be not the protection of academic freedom from public accountability, but the destruction of those mechanisms which were meant to 'protect' higher education institutions. Thus some legal scholars in contemporary South Africa assert that the academy is protected by the Constitution from unjustifiable incursion and that this reality must lie at the centre of any attempt to conceptualise the relationship between higher education institutions and the state.[20] While this view recognises that autonomy can be overridden if it conflicts with the values which underpin the Constitution, the reliance on law rather than social process is likely to be self-defeating. If the government of the day finds that stipulation onerous, and is able to convince society that action to erode it is justified (or, indeed, if society is unaware of what is being done in its name or chooses not to intervene), then the outcome will not be a limitation on public accountability but an abrogation or reinterpretation of the Constitution.

The key point here is that an attempt by higher education institutions to keep society off the campus by erecting a formulaic wall between their demand for autonomy and society's insistence on accountability ignores the reality that, if society – either in the form of a government or citizen groups speaking in its name – wishes to encroach on the academy, or wishes to allow the market to do so, it will do so whatever the formula says. This will be prevented only if society – or, more accurately, those who hold power within it at the time – is convinced that the academy's autonomy is a public good which must be defended. And higher education institutions cannot achieve that outcome by seeking to build a wall between them and the society they serve.

Further support to this view is offered by implication by Jonathan Jansen, seen by some analysts as a current champion of keeping government (and by implication society) at arm's length from

the academy. He insists that his TB Davie memorial lecture (Jansen 2004) and a Hoernlé Memorial Lecture delivered a few months later, which were seen as calls for the government and society to leave universities alone, were misinterpreted.

> It was not a plea to halt the dialogue between government and the university. Clearly, the university is accountable to society and must engage with it. It was, rather, a plea for the ability to answer back – an assertion of the right to participate in a dialogue. This reacted to a perception that government was speaking and the academy obeying. There is always a dialogue between government and higher education, but both voices must be heard. The government's role must be played in conversation with the academic community – that is why, for example, a forum of Deans of Education has been created to engage with government.

Thus the lecture did not propose a set formula to govern the relationship between the government and higher education. On the contrary, it argued that, in any society at any time, "… the relationship between the state and universities is unlikely to be resolved because of a deep ambivalence on the part of both about what universities are for". This "…will result in constant vacillation between stronger and weaker states of autonomy in practice" which provide an opportunity for strong institutional voices to make the case for autonomy and for academic freedom (Jansen 2004: 2-3).

Jansen adds that: "Government must be part and parcel of discussion on how to ensure that [institutional] Councils become more effective".[21] This view, of course, sees the maintenance of an appropriate balance between academic freedom and accountability in a constant dialogue. The complaint against government behaviour in recent years is not that it engaged with higher education – it must – but that it allegedly substituted issuing instructions for an exchange of ideas, interests and perspectives.

An example of ways in which higher education institutions might compromise their own autonomy by failing to take note of society's concerns, is the oft-stated concern by black academics that higher education institutions alienate them through a pervasive Eurocentricism which rejects anything African as primitive – prompting suggestions by some scholars that public accountability of higher education institutions would entail Africanising the academy, including the curriculum. Some proponents of this view have argued that indigenous languages should be the medium of instruction, despite the potential cost to society. Malaysia made indigenous languages the medium of instruction after independence but found that this prevented its citizens from competing in the global job market. But these pressures for change may gather momentum, whatever the merits of particular proposals, if the demand that higher education institutions demonstrate accountability by acknowledging the social context in which they operate is ignored.

Two conclusions flow from this discussion. First, that the boundaries between public accountability and intellectual freedom are perpetually shifting and constantly the subject of negotiation – understood not necessarily as a formal bargaining process but as an engagement in which a

mutually liveable outcome is sought. Seeking to freeze the boundaries is, it could be argued, a profoundly anti-democratic quest, because it seeks to remove a vital area of public life from the free processes of deliberation and the ebb and flow of politics, which are central to democracy. To say that the demands of accountability stop at a particular place is to seek to silence debate and contest over where the boundary should lie.[22] It is also, for reasons discussed earlier, doomed to failure.

Second, and flowing from the first, because the definition of the boundary between public accountability and academic freedom is the outcome of a political process, there are practical and normative reasons why the boundary needs to be determined by an open, democratic, and open-ended process, involving the widest possible range of participants. The practical reason is that the balance is likely to be most sustainable if it is underpinned by a social bargain. Higher education institutions will enjoy relative immunity from the state incursion they fear only if they convince an influential spectrum of society that they are fulfilling a socially useful purpose. Ironically, for them, protection from forms of public accountability which they find irksome lies precisely in acknowledging their need to account, by accepting that they have to persuade society of their usefulness if they want its protection and support. This clearly cannot be achieved by ignoring society – on the contrary, it requires active engagement with it and a voluntary acknowledgement of accountability to a variety of social interests. To use the terminology invoked earlier, higher education institutions need to embrace 'soft' accountability if they are to avoid the harsher variants of its 'hard' cousin.

It is important to stress that the approach proposed here does not rely on the formation of structured forums for engagement between higher education and society. While we will discuss below ways in which engagement between higher education institutions and key stakeholders might be institutionalised, this has a limited albeit important function – ensuring that interaction between higher education institutions and those visible, organised, interests and entities with which it must engage is channelled in a manner most consistent with democratic public accountability. But a task as complex as ensuring continuing engagement between society in all its diversity and higher education (in its diversity) cannot be neatly channelled into a particular forum or structured meeting place – the evidence shows that structured instruments for ensuring public accountability are biased against the poor and invariably fail to provide citizens with an adequate voice (Friedman 2006). Among other weaknesses is their tendency to reduce society in all of its diversity to a few easily manageable constituencies which are assumed to speak for widely divergent interests, because this makes it easy for officials to hear the presumed 'will of the people'. In reality this stills many voices. Since both higher education and society consist of diverse constituencies, and because only a conversation which remains open-ended is likely to produce authentic communication, the continued dialogue within and between higher education and society can only fulfil its purpose if it is structured by the rules of engagement which govern democratic societies. Ways of interacting must, therefore, be designed so as to allow engagement to be as open-ended as possible. And, since the means to organise and be heard are unequally distributed, and those who need to be heard most are often least likely to enjoy the means to express themselves, these mechanisms and processes must also seek to ensure that those who are excluded by formal forums are allowed a

way into the discussion. We make some proposals with this in mind at the end of this paper.
If this point applies generally to higher education institutions, it also applies to particular constituencies within them including – indeed especially – academics concerned to ensure the protection of their freedom from managerial encroachment within the academy. Attempts to secure academic freedom against the demands of institutional managements hostile to it are likely to succeed and endure only if they have significant support within society. Similarly, those who seek greater externally imposed accountability are likely to find that the boundaries they draw enjoy legitimacy only insofar as a social coalition can be assembled behind them. To act arbitrarily in society's name is to invite its rejection if the outcomes of intervention are seen to fail to yield public benefit.

Lest the idea of public support for higher education institutions seem implausible, a university administrator provides a concrete example. The Indian Institute of Technology, a centre of excellence which accepts only students who pass a rigorous examination – but which is also explicitly opposed to admitting students on the strength of caste or social connections – has "enormous legitimacy". It is considered the jewel in the crown of Indian academe, "and one gets the impression that any politician who does not support it may well be voted out of office."[23] Local higher education institutions do not seem to enjoy anything like this legitimacy. On the contrary, 'The chair of Higher Education South Africa believes higher education does not have the esteem it should – this is a consequence of a political process which began with apartheid state intervention, as well as the fact that there is no national consensus about the purpose of higher education institutions. Higher education should be, but is not, looking at how it cleanses itself. If it wants to get its esteem back a large project is needed. We must deal with the esteem problem by changing ourselves – by initiating a university renaissance."[24] The Indian example may be beyond the limits of the possible in this society, but does provide a standard to which to aspire – and invites debate on how institutions need to engage with society to move closer to it. We also suggest that restoring the esteem of higher education institutions cannot be imposed from within or from without, but should rather be an outcome of continuing dialogue among institutions, the state and society.

Normatively, our point about the need not to truncate public debate and political contest implies that the boundary between public accountability and the autonomy of higher education institutions must be set by a continuous and open-ended process of exchange between the academy and the widest possible range of social actors: while the precise nature of the bargain at any time will be set by the government and higher education institutions, the greater the range of involvement, the more likely is it that the resultant bargain (whether formal or informal) will reflect the prevailing preferences of the society to which higher education institutions are accountable. A key assumption underpinning the engagement would need to be the recognition that closure is never achieved – the boundaries will always shift.

One clear implication is that the government, which seeks to ensure accountability on society's behalf, is itself accountable for the way in which it seeks to do this – both to the society and to the higher education institutions who form part of it: "For what does the state account?" Jansen asks.[25]

Its accounting should entail not only a willingness to explain itself to society but to accept the discipline of justifying its own behaviour when it seeks to impose accountability. If the claim is that some current government interventions are arbitrary, for example: that the rationales for funding decisions are not explained,[26] this suggests that attempts to achieve accountability are being conducted in an unaccountable fashion. Government too, therefore, needs to acknowledge 'soft' accountability if its attempts to hold higher education to account are to be credible. One further implication of this approach is that society should be encouraged not to leave the task of ensuring higher education institutions' accountability to government alone: the more that active citizenship which will hold higher education institutions to account begins to emerge, the more vigorous will public accountability be.

A key aspect of the government's role in ensuring public accountability is, as we suggested earlier, its provision of resources to higher education institutions. Clearly, the less higher education institutions can rely on public funds, the more they are likely to depend on private donors – the net effect is less public accountability, particularly since traditional, unconditional donations from benefactors have declined.[27] How much the government makes available to higher education institutions, therefore, directly affects their capacity to fulfil public goals. So might the way in which resources are allocated. Thus, a university administrator says his institution is now able to calculate the contribution to costs of revenue of each faculty. In the face of scarcity, there is pressure within the university to favour money-earners rather than schools which contribute to national goals. "One of our engineering schools is top in Africa but is not a money spinner. If it does not get the funds it needs, it will be unable to play its role. The cost recovery approach is a blunt instrument which, if applied, could kill the programme, depriving society of a vital resource."[28] A similar approach by the government could, of course, have serious negative effects. How much the government is required to give – and on what conditions it should give it – cannot, however, be resolved by a recipe or formula and will itself need to be the result of a political process in which society must be able to engage.

A senior DoE official acknowledges that current higher education funding may need to increase to enable institutions to fulfil public goals. "We started by saying that the system could look after itself financially and that it needed efficiency gains to use existing resources better. We may now be able to provide more resources"[29] – a promise which, a Vice-Chancellor adds, has also been made at high levels of government: 'At a discussion with the President, we were led to believe that the state will reinvest in higher education."[30] But increased resources will not be unconditional: "We would need something in return. Resources could be pegged to access and affordability."[31] This provides an opportunity not only for increased funding, but also for a test of the government's and higher education's ability to negotiate a formula which seeks to achieve public purposes while allowing higher education institutions to retain enough autonomy to fulfil these purposes. "Accountability is important, but what the institution is to do with the resources must be negotiated. Government must also understand individual institutions better – what we can do will vary, and one formula for all is inappropriate. Our use of the funds should be based on a negotiated agreement in which we commit to particular programmes and are judged on our performance."[32] Although the government remains interested in a funding formula which might impose a single set of conditions on all, it does

not seem averse to this approach: "We could give resources and then agree on what outcomes are needed and leave higher education institutions to decide how to do it."[33] Clearly, this manner of allocating resources would be consistent with the approach advocated here while a recipe or formula for how resources are to be used would not.

Another implication of an approach which relies on open-ended interaction rather than a formula is that uniform treatment of higher education institutions is an inappropriate form of regulation – a consequence of the approach to accountability which seeks an all-encompassing formula which applies to all situations and institutions. Thus a senior administrator appeals for "sensitivity to differentiation between higher education institutions". He argues that different institutions have differing cultures and can contribute to public purposes in different ways. Government regulation currently does not recognise this, with a consequent loss to higher education's ability effectively to serve the public interest.[34] "We need to move away from the current mindset in which one small, under-capacitated higher education institution messes up and the entire sector is implicated".[35]

A further argument for differentiating between institutions is the relationship, mentioned above, between capacity and the enforcement of public accountability. Just as government's ability to ensure public accountability depends on its capacity, so does the ability of higher education institutions to fulfil public purposes determine the role they are able to play in meeting public goals and the degree of intervention they require to ensure that they do so. The capacities available to higher education institutions will determine the sorts of roles they can play in delivering higher education which meets public needs and these will inevitably differ among institutions. A key element of government capacity to ensure accountability is the recognition that different higher education institutions require different forms of regulation. And public accountability is most likely to be effective if it is premised on the acknowledgement that not all institutions can be expected to play the same roles and be subject to the same strictures. This, however, does not detract from the need for a set of minimum criteria with which all higher education institutions must comply.

This analysis, therefore, rejects the notion that the boundary between public accountability and intellectual freedom can be set by a formula. Rather, it asserts both that intellectual freedom is vital to a democratic society and social progress; and that it can be exercised only in a manner which recognises the accountability of those who claim it, and the accountability of the institutions in which they exercise it, to the public which the academy serves. And it insists that the precise boundary between academic freedom and public accountability can be set only by a continuing, open-ended and inclusive engagement between them.

6. INSTITUTIONALISING NEGOTIATION?

The approach proposed here does not necessarily require institutionalisation: negotiation as a process of engagement could be achieved purely by a reorientation of attitudes by all key actors, relying on open engagement, political contest and free public debate to set the terms of the accountability-autonomy bargain.

Thus, as suggested earlier, higher education institutions could and should see public accountability as a spur to account to and engage with society in defence of intellectual freedom, rather than as a retreat from it. Rather than seeking to work behind walls designed to keep society out, higher education institutions could respond by seeking to deepen their roots in society – on their own initiative rather than that of the government. "We must open the face of the university. We must offer centres of excellence which can contribute to social cohesion – local clinics, for example."[36]

One idea of how this might be achieved is offered by some contemporary experience in the United States, where some academics and higher education institutions are seeking to rediscover the 'publicness' of their role by devising programmes in which they engage more actively with society (Boyte 2003a; Boyte 2003b). Local higher education institutions have emulated this by embarking on social outreach programmes – but more is suggested here than an attempt to share some of the academy's expertise with society through community projects (which, of course, remain significant interventions themselves). While these may enhance the university's public image and its reputation as a social resource, they do not necessarily establish support for intellectual freedom; this would require approaches which seek to broaden the intellectual enterprise by engaging citizens in programmes of mutual learning. This requires that higher education institutions embrace the notion of academic citizenship, described thus by one local higher education institution:

> Academic citizenship refers to an individual's co-operative involvement (as academic, professional and subject specialist) in the community of their faculty, the university, the wider national community, and the international community of scholars, in delivering a service, performing tasks and making contributions to the functioning, well-being, and upliftment of these communities. It includes those organisational citizenship activities conventionally classed as 'administrative duties' as well as those related to 'community service' or 'community participation'. (Wits 2003)

According to another source:

> The purpose of working towards engagement as a university, rests in the advancement of citizenship, informed contributions to the solution of real problems, thereby contributing to the development of democracy, whilst addressing the development priorities of the country. The bedrock of any society and its advancement, be it technological, educational, social, political and economic, is embedded in [its] … intellectual resources. Universities form the foundation of this bedrock. (Loening-Voysey 2002: 2)

This approach also requires rediscovering a purpose beyond the needs of the market. One of

the authors of this paper has argued that this will include

> Actions by academics to promote justice, improve the conditions of life of their fellow human beings and participation in the transformation of the world ... [H]igher education institutions must be responsive to the needs of their immediate communities, neighborhoods, localities, nations and the continent at large. This requires more attention especially now that [Africa] is trying to overcome its history of deprivation and marginalization in order to improve the living conditions of majority of the … people. (Edigheji 2004: 10)

Again, Dewey's words are appropriate for the South African context today:

> When the school introduces and trains each child of society into membership within a little community, saturating him with the spirit of service, and providing him with the instruments of effective self-direction, we shall have the deepest and best guarantee of a larger society which is worthy, lovely, and harmonious. (Cited in Dworkin 1959: 49)

As Penny Enslin writing on education in South Africa has argued, the task

> is to counter the dominant discourse… overthrowing the divisive practice of depicting the teacher as expert scientist **who stands aloof from the problems of their immediate environment and society, and primarily serves the interest of a market economy.** (Enslin 1990: 89 [our emphasis])

The approach proposed here challenges higher education institutions to see autonomy as a product of accountability in another way – by pointing to the need for them actively to seek allies in society by convincing the broadest spectrum of citizens possible that independent intellectual activity is important to them and therefore requires defence. At present, higher education institutions' search for allies may go little further than an attempt to elicit funds from private donors. Yet a strategy which acknowledges accountability in order to secure intellectual freedom arguably requires an approach which sees society, and key groups within it, as potential partners offering a range of resources of which funding is only one. To a degree – and, if some are to be believed, a growing degree – this sort of relationship does exist with sections of business. An understanding which sought to glean from society more than funding would also entail engagement with a much wider set of interests.

This task is, of course, not straightforward and it may involve far more than an attempt by higher education institutions to make themselves socially useful through projects. There is likely to be an immense gap between public understandings of the role and function of higher education and that in the academy itself – a result both of the insulation of higher education institutions from society and of an inevitable gap between the specialist knowledge available in the academy but not currently in society. Thus it is important to ask how higher education can "find the language to show society that it is useful".[37] A detailed discussion of this important question is beyond the scope of this paper. However, it is important to stress the truism that a key test

of an academic's grasp of his or her subject is the ability to communicate it in intelligible ways to lay people. If this is not beyond the wit of individual academics – and is on the contrary a test of competence – it is surely within the grasp of academic institutions as collectives to find ways of explaining themselves intelligibly to the lay public. But, whatever the detailed implications of trying to communicate higher education's purposes to society, the question does serve, importantly, to remind higher education institutions of the challenges which this approach entails.

It challenges government, too, to broaden its understanding of higher education institutions' public accountability. Instead of viewing it purely as a process of accounting to government, it could be seen as a challenge to the authorities to see public accountability as a good which can be achieved only by broadening and opening government's role in seeking to ensure accountability to public scrutiny. This entails a willingness to explain and justify actions, clarity about the parameters in which autonomy is exercised and the reasons for them, and a continual readiness to engage with higher education institutions. But it also entails a need to deepen public involvement in securing accountability by constantly informing society of its plans and seeking to elicit the widest possible engagement by society. A government official acknowledges: "We have not done as much to involve the public as we should have – perhaps because we are too crisis-driven."[38]

But are new approaches and attitudes all that are required? Can new institutions and arrangements not also help to ensure greater public accountability and, through it, more justifiable and sustainable autonomy? Good reasons could be advanced for rejecting this idea. A rush to institutionalise engagement can, of course, prevent rather than facilitate the sort of engagement proposed here: by seeking to shoe-horn engagement into controlled channels, it can limit both its extent – the degree to which parties genuinely engage with each other – and its width and depth, by excluding social actors who may wish to engage, but not in the structured confines of a formal channel. Institutional channels for dialogue can too readily become substitutes for real exchange between all those who need to be party to it. And far too often, arguments that new social processes are needed give rise to responses in which formal structures foreclose options and truncate processes. "Our relations with the sector do not need to be institutionalised more – they need different attitudes."[39] There is also a widely held view, discussed below, which holds that attempts to find the balance between accountability and academic freedom through institutional changes will have little effect because the problem lies in approaches and attitudes.

Nevertheless, while institutionalisation should never be seen as a substitute for open-ended engagement – which means that, where formal channels are established, they cannot be seen as the only legitimate vehicles but as supplements to other, less formal, forms of engagement – it does seem that the notion of accountability to society rather than government alone, and the proposition that those who seek to secure accountability are themselves obliged to account,

could be strengthened by some changes designed to make these principles easier to implement.

6.1 Speaking to Parliament

One suggestion, designed to entrench the principle of accountability to the public rather than the government, is that higher education institutions account directly to Parliament.[40]

Thus, Rassie Malherbe of the University of Johannesburg argues that, because accountability is a relationship between higher education institutions and the electorate, not the executive, Parliament rather than the national ministry is its appropriate vehicle (UJ 2005: 2-3). Control does not enhance accountability but diminishes it: "Increased control by the executive actually reduces the accountability of universities because now they are subject to the executive, are responsible for less, and can just defer to the latter". Accountability to the Minister is also weak for practical reasons: the Ministry lacks the capacity to hold a wide range of higher education institutions to account.[41] Malherbe therefore proposes a 'soft' version of accountability – in which higher education institutions account to the society by explaining actions – which is open to the notion of open political debate and contest over the balance between autonomy and accountability, since engagement with the parliamentary process would automatically make that possible: "Universities can then explain directly to the people to what end they use their freedom and autonomy."[42]

Specifically, this would entail "annual reports to Parliament scrutinised by the Education Portfolio Committee, or a special subcommittee" as well as "evidence before the committee, e.g. by the Vice-Chancellor appearing in person. Reports should be published to inform the public."[43] It would not necessarily entail any change in law and regulation since higher education institutions can ask to appear before portfolio committees, and they in turn can ask higher education institutions to appear before them. (Malherbe also proposes that higher education institutions could be included in the Public Finance Management Act as public entities that must submit financial reports.)

This idea seems to enjoy significant support, although a senior government official notes that, if higher education institutions expect their dealings with legislators to be more congenial than those with the Ministry, they may face a rude awakening: "Parliament may be tougher on higher education institutions than we are. The Minister knows what is possible and what isn't. Parliamentarians may be more inclined to give higher education institutions a hard time". He agrees, however, that the proposal is "logical": "Chapter Nine Institutions go through Parliament so why not higher education institutions?"[44.] A Vice-Chancellor goes further: "Should the Portfolio Committee appoint [institutional] Councils? They could call for nominations and engage in a public process".[45] While he raised the idea as a possibility rather than a preference – and higher education institutions may well resist this level of intervention – his response does indicate significant support for accounting to Parliament.

The democratic theory which motivates this proposal is impeccable. But, whatever textbooks may say, the notion that accounting to Parliament will bring higher education institutions into

direct engagement with society, through those it has chosen to speak for it, is likely to run into uncomfortable political realities. The closed-list proportional representation system, in which voters elect a party rather than a person, and in which candidates' chances of election depend on where they are placed on a party list, has helped to ensure a wide gap between representatives and voters. The fact that successive elections have ensured a large majority for the governing party also removes one of the purported benefits of this electoral system – that it makes it difficult for one party to govern without the help of others, and therefore encourages bargaining and compromise. As a result, Parliament, including its committees, is far more dominated by the executive – and remote from voters – than this suggestion seems to assume. Accounting to Parliament would not, therefore, ensure that higher education institutions engage with the society rather than the government administration. Some educationists also warn that a consequence of the electoral system and the consequent centralisation of power in party leaderships (and the executive arm of government) is that the capacity of parliamentary portfolio committees to hold higher education institutions to account in the public interest is very limited.[46]

Nevertheless, this proposal does seem likely to enhance the understanding of public accountability proposed here. While Parliament is executive-dominated, this is not absolutely so: there have been examples in which engagement between Portfolio Committees and stakeholders has prompted legislative changes, for example. There may equally be some cases in which engagement between higher education institutions and Parliament could make an impact on practice and policy, even if it would be wise not to exaggerate this possibility. But there is a strong argument for parliamentary accountability even if it could be shown that this would have no impact on executive decisions. By engaging with Parliament and its Portfolio Committees, higher education institutions would be doing, in part, precisely what this analysis recommends: they would be accounting in a manner which invites a broadening of participation in the engagement – since, of course, Portfolio Committee meetings are public and are sometimes covered by the media. It would offer a means for higher education institutions, firstly, to demonstrate their willingness to account in an open way to the society; and also raise the prospect of reaching out to constituencies which have not been part of the higher education debate, but who could be inspired to become a part of it.

In sum, accounting to Parliament offers higher education institutions a prospect of conducting precisely that open public engagement on what they do and why they do it which is essential to creating and enhancing a continuing and broadening public debate on their role. For this reason, parliamentary accountability would enhance the model of public accountability proposed here, even if it did little or nothing to alter executive dominance.

6.2 Changing higher education institutional governance

In contrast to proposals for parliamentary accountability, the notion that higher education institutional governance could be changed to make engagement between institutions and society easier is far more controversial. Many stakeholders are sceptical: "We don't need new structures,

we need to shift institutional culture."[47] Presented with specific proposals for change, many argue that it is attitudes, not structures, which need to change. But the two are not mutually exclusive. It is possible to argue both that attitude change is essential – and that structures could be altered to make this more likely and to give it more effective expression if it happens.

'Classic' views of autonomy thus tend conveniently to forget that existing university governance arrangements already build public accountability into the structure of higher education institutions. Even before the transition created the need for broad transformation forums (interim arrangements effectively to provide a decision-making alternative to institutional Councils which were seen as illegitimate until a new legislative framework was devised) and then for Institutional Forums (which advise Councils and are designed to influence change within higher education institutions), 'classic' arrangements ensured that the South African university was run by a Council whose members included representatives of constituencies external to the higher education institution and across a range of social interests. And the allocation of seats to Convocation representatives has enabled graduates to form a strong lobby within higher education institutions. In the case of historically advantaged institutions, this form of accountability can provide opportunities for interests opposed to change (since we might expect those who were privileged enough to attend higher education institutions in the past to resist erosion of the exclusive university they knew by new entrants). Some argue this is occurring at the University of Stellenbosch at present as "proponents of Afrikaans language exclusivism find ways to use language to keep black student numbers down".[48]

Certainly, since democracy's advent, changing the composition of institutional Councils has been a key preoccupation of attempts to ensure that higher education institutions become compatible with a democratic order. Most interviewees noted that considerable effort had been devoted to ensuring that Councils became more representative. Current legislation is clearly designed to emphasise the principle of external accountability because a minimum of 60 per cent of Council members must be drawn from external constituencies – and, while limits are placed by law on the representation of internal university stakeholders, none is placed on external representation. Neither is the precise form of the latter stipulated, save for the requirement that government must be represented (Hall, Symes & Luescher 2002: 35). According to the 1997 *White Paper on Higher Education Transformation*, two of the tasks expected of Councils are "addressing the development needs of society" and "contributing to the creation, *sharing* and evaluation of knowledge" (Hall, Symes & Luescher 2002: 69 [our emphasis]). Clearly, therefore, Councils are a vehicle for public accountability as it is understood here; their role has been described as one of 'trusteeship' on society's behalf (Hall, Symes & Luescher 2002: 66).

There is, however, a widespread view that Councils are not playing that role. "While there is greater racial representativeness in councils, their functioning largely remains unchanged. And so the public accountability that was envisaged through increasing outside representation in Councils has not been achieved," says an educationist. One reason is that broadening representation has

had "unintended consequences". One is that political divisions within society have been brought into Councils, which at times results in their near paralysis. In some cases, Councils have decided along political lines, including in appointments. Therefore, rather than ensuring the accountability of higher education institutions to the public, Councils promote political and personal agendas. Political in-fighting among Council members, at times around issues extraneous to higher education institutions, are said to have paralysed their activities and undermined their accountability to the public. Thus, on occasion, Councils appoint candidates to senior executive positions and these appointees are beholden to those who appointed them rather than the public.[49] (Another interviewee notes, similarly, that the broad transformation forums established during the transition were "meant to represent the public but were really political actors").[50] There are also fears that arrangements allowing members of Councils to bid for contracts to provide higher education institutions with services undermine public accountability by encouraging corruption. "Some supposed representatives of the public are unable to perform their oversight role because they are too involved in seeking contracts due to outsourcing." Councils should be responsible for the cultural and institutional transformation of higher education institutions but have not addressed this task.[51]

The potential of Councils to serve as trustees is, therefore, in need of urgent attention. First, the range of social actors represented on them could be expanded. The approach proposed here suggests that involving a wider range of society in Councils – including the possibility of direct election of some Council representatives by residents of the municipalities in which higher education institutions are based, as in some American public universities (Hall, Symes & Luescher 2002: 67) – could substantially enhance accountability without increasing government control. The views reported above suggest that attempts to broaden representation over the past decade have tended to concentrate on the inclusion of members with political connections and that this has not enhanced public accountability. Rethinking who is invited (religious leaders and people with strong roots in grassroots communal activity, for example) could ensure a different sort of representation, one more in touch with public sentiment and more imbued with seriousness of purpose.

Second, their ability to act as trustees of the university in practice as well as in theory may need to be enhanced, since previous research has revealed constraints to the exercise of trusteeship, such as successful resistance by higher education institution executives (Hall, Symes & Luescher 2002: Chapter 3). A pattern of dominance of Councils by senior management has apparently been enhanced by Council approval of large salary increases for executives: "Some Vice-Chancellors see Council as a protection. But Councils are meant to be society's vehicle, not the Vice-Chancellor's."[52] Part of the problem, an educationist who has served on higher education institution Councils suggests, is that the administration does not provide Councils with the information they need to take decisions. For example, on no Council on which this informant served did the institution's administrative leadership present Council members with "transformation data such as equity in relation to other institutions, comparative pass rates or research outputs. Thus the trustees did not

know how well their institution was performing in comparison to others (and which others) and in terms of transformation."[53] This implies that Fuller's "Caesarism" is part of the style of higher education institutions' management in South Africa too – in the shape of an assumption by managers that key questions need not be decided by Councils and that there is therefore no need to provide them with information on these issues. Since those who manage the university daily have considerable capacity to thwart Council's wishes, a programme of ensuring greater public accountability may need to become a continuing concern of education policy for the foreseeable future. While attempts have been undertaken thus far with limited success, the scale of the problem may be too great to allow a quick solution.

A key reason for resistance to broadening Councils further is an apparent consensus between government, institutional leadership and analysts that the key problem with Councils at present is not their limited representativeness, but their inability to act effectively as society's custodian. Thus, the Minister of Education has met Council chairs to initiate a discussion on their role. This is born out of a government concern that Councils are not fulfilling their assigned task – safeguarding society's interests. "Do we have a common understanding of what they are meant to do? Elected Council members sometimes don't report and it is not always clear on what basis they make decisions. We are hoping a dialogue will clarify that. There is no difficulty with broadening Councils but it could become unmanageable or just a numbers' game. People who are brought in could be well-meaning but unaware of how higher education institutions function. We need to build a new culture. Changing rules can be a quick fix."[54] This reflects a broadly held view that the problem is Councils' understanding of their role. "Ensuring Councils play their role is not about broadening societal involvement. The question is leadership – moral, ethical and political. You can't just rely on a cross-section of society if people don't know their role or are unable to play it. We need a screening process for Councils to ensure that people don't serve on them unless they are able to do so."[55] Similarly: "We need more effective Councils – a critical mass of leaders. And we also need a balance between interest and capabilities. Councils are already too large – 30 members are too many – and so there is limited scope to broaden them because the larger they are, the less effective they are."[56] Thus, while higher education institutions' managements may be culpable for not supplying Councils with the information they need, more capable – and motivated – Councils would presumably insist on this data so that they are able to perform their tasks adequately. One informant argues that transformation indicators, for example, are widely available but that Councils show no interest in applying them.[57]

These views do highlight a real problem – ensuring that Councils are more representative is not in itself enough to ensure that they safeguard society's interests. And, the larger Councils are (although now limited to 30 members by the amended *Higher Education Act*), the more likely is it that that they will seem representative on paper but will be too large to exercise effective custodianship in practice. There is, therefore, a distinct limit to the degree of public accountability which can be achieved simply by broadening councils. It may well be that one remedy is to enhance society's participation in Councils not through direct representation but by ensuring that they operate in more transparent ways so that public observation of, and

comment on, their decisions becomes more possible. But these reservations do not seem to be reasons to abandon the principle that Councils should be representative of as broad a spectrum of society as possible (given the already mentioned constraints on their size) and that efforts to enhance their capacity and to influence their understanding of their role, be maintained and enhanced in the hope that they will prompt both broader and more effective custodianship on society's behalf. It is also worth noting that the divide between an approach which stresses the quality of Councils and one which emphasises the need for broader representation may not be as stark as it seems. As implied above, it could be argued that one reason why Councils fail to act as guardians of public accountability (and why they often engage in politicking) is that they have been drawn from a particular section of society – politics, business and occasionally trade unionism. While these are all vital activities, they do not nearly encompass the full range of public leadership available in the society. Nor, arguably, are they the sorts of leaders most likely to be interested in ensuring that higher education institutions are more accountable. Thus, while there may well be scope for more 'capacity building' aimed at strengthening Councils' competence (one informant complains that the DoE has not shown sufficient interest in sustained programmes to improve Council members' competence[58]), the problem in some cases may be less that Council members want to guard the public interest but do not know how to do this, than that the current composition of some Councils ensures a lack of will to act as effective vehicles of accountability. This suggests that the 'lack of capacity' may simply be a consequence of who is selected to serve on these Councils – an apprehension which is strengthened by the claim that some Council appointees are in effect selected by Vice-Chancellors, ensuring, of course, an accountability to the institution's administration, not the public.[59]

A deeper and broader search for Council candidates may see church leaders, school principals or leaders of grassroots women's groups serving. It does seem likely that leadership more rooted in the daily concerns of citizens and less inclined to compete for public office or attention may be more serious about the task than current incumbents. They may also be more likely to express the concerns of grassroots citizens rather than local elites. There are several ways (which are beyond the scope of this paper) in which this kind of leadership could be drawn into Councils. But the key point is that there is clearly a relationship between who is chosen to serve on Councils and the quality of participation. The quality of current Councils may be directly related to the sort of leadership which is chosen to serve on them, and more representative Councils may be better able to guard the public interest.

Institutional Forums created by the 1997 *Higher Education Act* may also have untapped potential to contribute to public accountability. These statutory forums, which are primarily meant to contribute to institutional transformation, are advisory only and it is not at all clear that they exercise any influence on institutional decision-making. While the Act insists that the various interests within higher education institutions are represented on them, there is no stipulation governing external membership – it is permitted but not mandated (Hall, Symes & Luescher 2002: 36-37). While the approach proposed here does not suggest a need to change the legislation to give the forums greater powers and broader representation (since this is likely to

offer an institutional 'solution' to a political problem), they do offer higher education institutions which see public accountability as a promise rather than a threat – not least because it offers a more democratic alternative to accountability to government – an opportunity to broaden participation in governance, and therefore to expand their social constituency both by taking the forums more seriously and by broadening their composition.

A more complex set of problems is posed by the role of Senates in institutional governance. One view sees Senates as potential guardians of the public interest in the face of managerialism and of tendencies at some higher education institutions to silence discordant voices and thus to deny society the full range of information and ideas.[60] Jansen notes: "It is crucial that the full range of voices be heard in the discussion on the university. Accountability is not a situation in which the South African Qualifications Authority, for example, issues instructions and the university implements them."[61] In this view, an enhanced role for the Senate is crucial if the broader public interest is to be served by maintaining scholarship of a high standard which is also broadly socially responsive. The alternative view points to the potential lack of accountability among academics as well as institutions. "I worry about dividing universities into academics who have wisdom and administrators who do not. Academics expect to be unaccountable. Relying only on academic collegiality has allowed friends of the white club to access money for research on the strength of their personal contacts. Many administrators are loyal to the ideals of the institution and are an essential check on academic unaccountability." In this view, insufficient academic accountability has also ensured low standards of scholarship: "Standards are mediocre and research output is poor". And, while higher education institutions are developing black talent, many academics are reluctant to countenance multilingualism: "There is an institutional culture that feels that, because you can't pronounce some English words, you are stupid."[62]

One example of what this view seeks to counter is a claim by an academic staff association representative that the principle of diversity dictates that "all disciplines should be accommodated and not allowed to disappear from the curriculum".[63] Since there is a wide range of disciplines which can be taught and not all higher education institutions can teach all of them, the idea that any particular discipline has an automatic right to remain simply because it was chosen in the past and regardless of whether anyone besides the academic community feels that it fulfils a purpose may be seen as a demand for academic licence. Similarly, a Vice-Chancellor notes that the danger of enhanced powers for the Senate is that "the university community could be self congratulatory and self referential: if universities are to fulfil their public role, there is need to shift their thinking".[64] It is also claimed that Senates may not have as much influence as they could because they are not assertive enough: "We do want to hear the voices at Senate but, while academics complain about a loss of power, we give it away because we do not engage sufficiently."[65]

An enhanced role for Senates would not increase accountability if it meant that the academic community acquired a blank cheque to insulate itself from scrutiny. But this is not the only possible

way of looking at a more active and influential Senate. To suggest that the academic community's voice needs to be heard more loudly is not to insist that it should be the only voice. Jansen's view, for example, sees a more vocal Senate in active and continued conversation with a range of other voices. The need for public accountability by higher education institutions does not apply to administrations only – academics are clearly as bound by it and therefore as much a necessary participant in the conversation which must safeguard accountability. Since there is broad agreement that managerialism has diminished the academic voice – in ways which have advanced particular interests rather than public accountability – an enhanced role for Senates to engage with other key actors, including interests outside the academy, is more likely to ensure that a vital voice in the continuing discussion on public accountability and academic freedom is heard.

6.3 Formalising a relationship?

These approaches to the governance of higher education institutions could strengthen prospects for the engagement proposed here by ensuring that institutions take the initiative in accounting to the public, rather than to government alone. But there may be arguments also for a revision of the way in which relationships between higher education institutions and the government are conducted.

There is some support for the notion of a 'social contract' among government, the higher education sector and other actors, in which the parties would commit themselves to shared goals. From the government perspective: "Where is the catalyst for a co-operative transformation effort? How do we change people's outlook? There is no other way than the co-operative route. Only a joint commitment can work."[66] An academic staff association leader believes a social consensus on the purpose of higher education institutions is needed. He says institutions are unable to regulate themselves effectively because there is no national consensus on what they should do to build true African universities. Such consensus has become more imperative because organs of institutional governance (Councils, Senates and Institutional Forums) are failing to generate critical universities.[67] "There is no shared vision between the government, Councils and institutional leadership about transformation. Government policy alone will not resolve this problem. A shared vision of the transformation of higher education institutions, to make them accountable, must be a product of engagement between the state, Councils and higher education institution leadership. There is a need to involve structures such as Senates and Institutional Forums."[68] It is argued also that shared values need to be created within higher education institutions if they are to fulfil their public purpose: "Some believe that a university is a place where people are not supposed to share values because it is a place of dispute and debate. But, at the fundamental level, there must be some shared understanding of an institutional value system."[69]

Some stakeholders have suggested that there may be scope for a forum providing for structured engagement between government and higher education institutions. Provided that the forum is seen as a complement to, rather than a substitute for, other forms of engagement – and that conscious steps are taken to ensure that it does not prompt government and higher education institutions to negotiate behind society's back and beyond its gaze; and that any agreements reached are not seen as final settlements but merely as landmarks in a continuing process – this

arrangement could help to ensure that the (re-)negotiation of the boundaries between accountability and autonomy is a continuing process and that it occurs in a context in which the possibilities of co-operation are enhanced. Its key significance would lie in its potential to signify – and to ensure in practice – that balancing accountability and autonomy can be achieved only by a process of continuing engagement, rather than an attempt to reach binding agreements which will inevitably unravel if they are not constantly re-negotiated.

One higher education leader suggests that higher education institutions could account at "an annual gathering of the state - executive and legislature - and civil society. This could be "an intermediary forum for annual dialogue, a dialogical forum". It should not be a formalised forum like the National Economic Development and Labour Council (NEDLAC) but should be a forum for exchange. If successful it might "shake the university enough to make rapprochement between state, civil society, business and the university possible".[70]

Others propose a Higher Education Charter as a means of clarifying the respective roles of government and higher education institutions, as well, perhaps, as committing higher education institutions to particular transformation targets (Edigheji 2005). Under one view: "Social consensus must be embodied in a Higher Education Charter which should be a product of engagement between the state, higher education institutions, business and civil society organisations. This could be a basis of co-management between the higher education institutions and the state." In other words, where Councils have been unable to provide the required oversight of higher education institutions, a Charter could become a basis for their explicit regulation. Reasons for regulation would be publicly known and could become a basis for society to judge higher education institutions. However, the regulation should be for a short or medium term, until such time as there is a national consensus around the purposes of higher education institutions.[71] "We need a charter because current structures are the consequence of an interregnum."[72]

At first glance, the proposal of a Higher Education Charter would seem to jar with the approach proposed here because it could be seen to 'freeze' relationships, precluding public debate and political contest, the emergence of new voices and the revision of agreed understandings. This consideration and other concerns ensure significant objections to a Charter which is seen by some as a threat to the attempt to ensure that universities are able to fulfil their public purpose. It is seen by some critics as a recipe for a bureaucratisation of higher education and there are fears that it would make for rigidity and attempts to impose uniformity. "A Charter is likely to over-regulate the sector, impairing its ability to fulfil public purposes."[73] "I am uncomfortable with a Charter because it would be too undifferentiated and too rigid – perhaps we need an individual charter for each institution, not a sectoral document."[74]

Those who support a Charter also add qualifications aimed at overcoming the notion that it could resolve problems which can only be settled through more open-ended engagement. "A Charter should not be purely instrumental – at best it could specify the social contract between higher education institutions and society. For example, turning out critical citizens could be one of their obligations. The danger is that it could become purely mechanical. We maybe need another word. The state, the sector and society must accept that this is a long-term process."[75]

A Vice-Chancellor argues that "we do need a charter of university governance – a sort of King Code for higher education", but adds: "Perhaps a Charter would be appropriate, but it must be aspirational, not fixed in time – a lens or prism from which to view our evolution."[76] An advocate of a Charter wonders whether it is possible to reach a broad agreement and whether institutional leaders have the will to implement a Charter given their vested interests.[77] Another fears it might lead to complacency about the degree of change which is needed: "We need to embrace more than a charter."[78]

However, there is no reason why a Charter need be regarded as a final document – rather than as a record of the understanding of the parties until new understandings and circumstances prompt a revision; nor any reason why it should not be subject to critical scrutiny from social interests which were not directly party to it. The Charter could serve as a social contract between government and citizens on the one hand, and higher education institutions on the other: its formulation and implementation would be based on partnership among the government, universities and stakeholders. Among other things, it could define the purposes and objectives of higher education institutions, allowing progression towards the realisation of these objectives to be regularly assessed and monitored.

One of the authors of this paper has argued that a Higher Education Charter should:

> focus on the need to transform the structures of power in the universities, to broaden access, and to ensure inclusivity and black intellectual empowerment. The charter should set out targets for the representation of blacks in all decision-making structures in each university; reserve a considerable percentage of each university's research funds for black academics; and Africanise the universities – especially their curriculum – to give due attention to African studies and languages. (Edigheji 2005)

Clearly, far more is at stake here than change in racial demographics, important as that is. "Transformation is not simply a civil rights issue – in which we assume that the system is fine as long as everyone has access to it. The institution has to change. The country should demand a higher level of performance with transformation."[79] And it cannot be stressed too strongly that a Charter cannot settle the relationship between higher education institutions and society: at most it can provide a framework within which the continued conversation between them can proceed.

The Charter process envisaged here is not, therefore, analogous to those which have occurred in various economic sectors – it is not aimed at producing a formula which will bind higher education to specific outputs. It would deal with the broad question of the university's role in the light of society's expectations and needs. A key benefit would be to reduce the possibility of arbitrary intervention and to render both government and higher education institutions more accountable to society. The more understandings between higher education and government are clarified and submitted to the public gaze, the more likely are they to provide protection against arbitrary intervention and to allow social interests to examine higher education institutions' intentions and to scrutinise them.

CONCLUSION

The interventions proposed here have, we believe, a capacity to assist the strengthening of public accountability. However, it must be stressed that these proposals are not meant as substitutes for continued dialogue – or for active political processes in which citizens seek to ensure that the higher education system, which is an important national asset, works in their interests and that contending interests and visions, inside and outside the academy, engage with each other to win political support for their vision. The proposals are, rather, designed to enable that dialogue and that political process to emerge.

Much of the task of ensuring that higher education institutions do what society expects of them, and in ways which make full use of their talents and expertise, must be exercised in open-ended debate, dialogue and contest. Both government and higher education institutions will need to tackle this more seriously if public accountability is to become a reality, while intellectual freedom and its public credibility are preserved.

ENDNOTES

1 Interview: Nic Coetzee.
2 Interview: Nico Cloete.
3 Interview: Nico Cloete.
4 Interview: Ihron Rensburg.
5 E-mail communication: 15 August 2006.
6 Interview: Molapo Qhobela.
7 Interview: Molapo Qhobela.
8 Interview: Nico Cloete.
9 Interview: Molapo Qhobela.
10 Verbal submission to HEIAAF Task Team by DoE delegation (23 March 2006, Pretoria).
11 The citation refers specifically to the role of public officials. It has been modified to make it more broadly applicable.
12 This section has drawn extensively on Edigheji 2004.
13 Interview: Ihron Rensburg; interview: Nic Coetzee.
14 For example, in a number of submissions made to the CHE HEIAAF Task Team.
15 Interview: Nic Coetzee.
16 Interview: Nico Cloete.
17 Presentation by Professor William Freund to the CHE HEIAAF regional forum in Johannesburg (22 May 2006).
18 Interview: Yunus Ballim.
19 When told that the Pope was opposed to a course of action on which he planned to embark, Stalin is reputed to have asked, contemptuously, how many battalions the Pope had at his disposal.
20 Views expressed at CHE HEIAAF regional forum in Johannesburg (22 May 2006). In this view, the constitutional protection is not unlimited since the Constitution itself contains a limitation clause stipulating that rights can be abrogated for purposes which are "reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom" (Section 36). But in this view, the test of whether the attempt to impose accountability is justified is a juridical test which can be determined by a court.
21 Interview: Jonathan Jansen.
22 For the centrality of uncertainty to democracy see Przeworski 1991.
23 Interview: Yunus Ballim.
24 Interview: Ihron Rensburg.
25 Interview: Jonathan Jansen.
26 Views expressed at CHE HEIAAF regional forum in Johannesburg (22 May 2006).
27 Interview: Yunus Ballim.
28 Interview: Yunus Ballim.
29 Interview: Molapo Qhobela.
30 Interview: Ihron Rensburg.
31 Interview: Molapo Qhobela.
32 Interview: Yunus Ballim.
33 Interview: Molapo Qhobela.
34 Interview: Yunus Ballim.
35 Interview: Jonathan Jansen.

36 Interview: Ihron Rensburg.
37 Discussion by HEIAAF Task Team (13 September 2006, Pretoria).
38 Interview: Molapo Qhobela.
39 Interview: Molapo Qhobela.
40 Interview: Nic Coetzee.
41 Presentation by Professor Rassie Malherbe to the CHE HEIAAF regional forum in Pretoria (23 March 2006).
42 Presentation by Rassie Malherbe (23 March 2006).
43 Presentation by Rassie Malherbe (23 March 2006).
44 Interview: Molapo Qhobela.
45 Interview: Ihron Rensburg.
46 Discussion by HEIAAF Task Team (13 September 2006, Pretoria).
47 Interview: Yunus Ballim.
48 Interview: Jonathan Jansen.
49 Interview: Nico Cloete.
50 Interview: Ihron Rensburg.
51 Interview: Nico Cloete.
52 Interview: Ihron Rensburg.
53 E-mail communication: 15 August 2006.
54 Interview: Molapo Qhobela.
55 Interview: Jonathan Jansen.
56 Interview: Ihron Rensburg.
57 E-mail communication: 15 August 2006.
58 E-mail communication: 15 August 2006.
59 Discussion by HEIAAF Task Team (13 September 2006, Pretoria).
60 Presentation by William Freund (22 May 2006).
61 Interview: Jonathan Jansen.
62 Interview: Yunus Ballim.
63 Interview: Nic Coetzee.
64 Interview: Ihron Rensburg.
65 Interview: Yunus Ballim.
66 Interview: Molapo Qhobela.
67 Interview: Nic Coetzee.
68 Interview: Nico Cloete.
69 Interview: Yunus Ballim.
70 Interview: Ihron Rensburg.
71 Interview: Nic Coetzee.
72 Interview: Ihron Rensburg.
73 Interview: Jonathan Jansen.
74 Interview: Yunus Ballim.
75 Interview: Molapo Qhobela.
76 Interview: Ihron Rensburg.
77 Interview: Nico Cloete.
78 Interview: Ihron Rensburg.
79 Interview: Yunus Ballim.

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