COUNCIL ON HIGHER EDUCATION

OVERVIEW OF RECENT AND CURRENT DEBATES IN SOUTH AFRICAN HIGHER EDUCATION: ACADEMIC FREEDOM, INSTITUTIONAL AUTONOMY AND PUBLIC ACCOUNTABILITY

Commissioned Report to HEIAAF Task Team

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ACRONYMS

AAUP	American Association of University Professors
ANC	African National Congress
AUCC	Association of Universities and Colleges of Canada
CAUT	Canadian Association of University Teachers
CHE	Council on Higher Education
CHEC	Cape Higher Education Consortium
CHET	Centre for Higher Education Transformation
CODESRIA	Council for the Development of Social Science Research in Africa
CSHE	Centre for the Study of Higher Education (University of the Western Cape)
CTP	Committee of Technikon Principals (precursor to HESA)
DoE	Department of Education (national)
GEAR	Growth, Employment and Redistribution (macro-economic policy)
HEI	Higher Education Institution
HEIAAF	Higher Education Institutional Autonomy and Academic Freedom Project (of the CHE and its Task Team)
HEQC	Higher Education Quality Committee (of the CHE)
HESA	Higher Education South Africa (unified successor to CTP and SAUVCA)
IAU	International Association of Universities
ICT	Information and Communication Technology
NCHE	National Commission on Higher Education
NHEIAS	National Higher Education Information and Applications Service
NPHE	National Plan for Higher Education
NQF	National Qualifications Framework
PQM	Programme and Qualifications Mix
QA	Quality Assurance
SADC	Southern African Development Community
SAQA	South African Qualifications Authority
SAUVCA	South African Universities Vice-Chancellors Association (precursor to HESA)
SETA	Sector Education and Training Authority
UCT	University of Cape Town
UNESCO	United Nations Educational, Scientific and Cultural Organisation

1   INTRODUCTION

1.1   Purpose of the Paper

This paper has been prepared for the Council on Higher Education (CHE) Task Team investigating South African government involvement in, and regulation of, higher education, institutional autonomy and academic freedom (the 'HEIAAF Task Team').

The paper is intended to provide, for the information, interest and consideration of the Task Team, an overview of some of the principal recent and current debates in South African higher education around academic freedom, institutional autonomy and public accountability. The paper has chosen to define 'recent and current' as the period since 1994, with a particular focus on the period since 1999.

Given that this paper is an overview and an input to the work of the Task Team (as opposed to an analysis which is an output of the work of the Task Team), it seeks primarily to convey the arguments put forward by others, rather than to develop arguments or to elaborate interpretations of its own. The paper is selective (i.e. it does not attempt to cover every recent and current debate, but chooses to focus on those that are widely cited and/or interrelated) and also tends to be indicative, rather than exhaustive, in the manner in which it conveys principal ideas and arguments.

While the purpose of this paper is to highlight recent and current debates in South African higher education around academic freedom, institutional autonomy and public accountability, it seems necessary and appropriate to preface this discussion with a brief consideration of the status of these concepts in South Africa prior to 1994, as well as to locate their current status within a brief description of the prevailing legal and policy context. Chapters 2 and 3 fulfil these purposes with overviews of the respective terrains. In Chapter 5, the paper ventures to suggest conclusions and possible future lines of enquiry flowing from the main discussion in Chapter 4.

1.1.1   Purpose of Appendices

While the primary purpose of this paper is to provide an overview of recent and current debates in South African higher education, as relevant to the HEIAAF Task Team's field of enquiry, there are a number of contexts or frameworks which can usefully inform these debates. Although time has allowed only a very limited exploration of these, the core element of the paper is supported by a scaffolding of brief appendices that suggest these related contexts and frameworks, by way of a of 'shorthand reading' of selected texts:

- Appendix A: The State of Academic Freedom and Institutional Autonomy in Africa
- Appendix B: Further Comparative Perspectives on Academic Freedom, Institutional Autonomy and Public Accountability
- Appendix C: Some Additional Conceptual Frameworks

The intention of these appendices is to suggest ideas and insights (both complementary and conflicting) that may enrich the thinking of the Task Team as it develops the HEIAAF study's programme of work. The approach is to outline key ideas through the use of limited indicative references and point-form summaries.

2   CONCEPTUAL TRAJECTORY IN SOUTH AFRICA BEFORE 1994[1]

As in many colonised countries, South African higher education institutions were influenced by the traditions of the colonial power. Accordingly, early (English-medium) institutions, such as the South African College and the University of the Cape of Good Hope, were dependent on the University of London for the recognition of their qualifications, and modelled their governance and administration along the lines of Scottish universities. Their ideas of academic freedom, and related conceptions of the autonomy due to a university, were accordingly influenced by the classical traditions of English and Scottish institutions: a university was a community of scholars free to determine for itself policy and other matters pertaining to teaching and research.

Early dissension about the medium of instruction led to an initial split between English- and Afrikaans-medium public universities, which were ultimately established each in terms of its own Act of Parliament. Ideologically, these institutions quickly diverged. Within Afrikaans institutions, a view came to be formulated that true university autonomy and academic freedom can only exist when universities are closely connected to particular population groups or peoples (*'volksgebonde'*)[2]: in due course, the Afrikaans *'volksuniversiteit'* would serve as a key intellectual source of apartheid. English-medium – or so-called 'open', or liberal - universities continued to uphold their traditions of academic freedom and to admit students on academic grounds alone. They therefore found themselves in opposition to the apartheid state at the time of the Separate University Education Bill of 1957, and the Extension of University Education Act of 1959. This legislation prepared the ground for the establishment of public institutions reserved for African students in the 'bantustans' and self-governing territories (ultimately 11 such institutions were established between 1959 and 1988; four higher education institutions designated for either Coloured or Indian students were also formally established in the 1960s, although in some cases their origins pre-dated this.)

At this point (late 1950s) in the history of South African higher education, the conceptual territory of academic freedom, institutional autonomy and public accountability, became extremely complex under the ideological pressure of the apartheid state.

In 1957, when the National Party government made clear its intention to apply the principle of 'racial' segregation in university education, the four English-medium universities declared their opposition publicly (in a booklet entitled *The Open Universities in South Africa*). In this, they declared their attitude to academic freedom, not by allusion to an exclusive definition, but by an emphasis on the 'four essential freedoms' of a university, namely: the right of the university to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study. In this they followed the formulation of academic freedom of Thomas Benjamin Davie (TB Davie), a former vice-chancellor of the University of Cape Town (UCT).

The TB Davie formulation has now become 'paradigmatic'[3] for many quarters in South African higher education - although it was certainly not so for the apartheid state, and although its paradigmatical status can be subjected to examination (and has been, as discussed elsewhere in this paper). Given the formulation's status, it is worth spelling out in more detail. Specifically, Davie's formulation of academic freedom was:

> *Our freedom from external interference in (a) who shall teach, (b) what we teach, (c) how we teach, and (d) whom we teach.* [4]

In more detail, Davie stated that:

> *We desire at all times (a) to be permitted to appoint our staff on the grounds of their fitness by scholarship and experience for the research and teaching for which they are needed, (b) that the staff duly appointed shall teach the truth as they see it and not as it be demanded by others for the purposes of sectional, political, religious, or ideological dogmas or beliefs, (c) that the methods of teaching shall not be subject to interference aimed at achieving standardisation at the expense of originality or orthodoxy at the cost of independence, and, lastly, (d) that our lecture theatres and laboratories shall be open to all who, seeking higher knowledge, can show that they are intellectually capable of benefiting by admission to our teaching and are morally worthy of entry into the close intimacy of the great brotherhood [sic] which constitutes the wholeness of a university.[5]*

Clearly, the apartheid state could neither be party to such a view as Davie's, nor could endorse its value for public higher education institutions. For this reason, when, in the early 1970s, the Van Wyk de Vries Commission of enquiry into universities came to specify the nature of the relationship between state and sector, it could identify no conceptual unanimity on academic freedom and institutional autonomy[6]. Instead it chose to speak of the relationship between separate 'spheres' and within this to provide for autonomy and freedom, to the extent that a university did not jeopardise these by engaging in 'political ideology and public action that would bring it into conflict with society or the state'[7].

Legally speaking, each university (inside the Republic) was a 'corporation' founded by an Act of Parliament – meaning that its functions were prescribed and could be terminated by the state. At the same time, in policy terms, a university was 'an independent sphere of societal relationships' (alongside the spheres of the state, religion and so on), meaning that *for as long as it existed*, the state could not interfere directly in its affairs. Neither could the university interfere in the affairs of the state by, for example, rejecting the state's designation of it for a particular 'race' group.[8]

In practice, both English- and Afrikaans-medium institutions enjoyed considerable autonomy – although always with the qualification that they functioned within the grand scheme of apartheid social engineering. They were funded with block grants allocated on a notional formula basis according to retrospective student enrolments, research outputs and a number of other factors; and enjoyed a large degree of freedom in the deployment of their block grants in internal budgeting.

In contrast, the six universities in the 'bantustans' and self-governing territories, were specifically designed as extensions of these bureaucracies, and had tight controls over the appointment of teaching staff and similar attempts to control the curriculum. Their budgets were line-item extensions of administration budgets, as an integral part of the civil service.

Technikons, established by Act of Parliament in 1967 out of the former colleges of advanced technical education, did not – until 1993 - award degrees, and did not enjoy their own 'independent sphere', but were subject to central control of their curricula, examinations and certification.

This idiosyncratic system of apartheid-era higher education entails complexities for the consistent conceptualisation of academic freedom and institutional autonomy in contemporary South African higher education.

First, there was no consistent conceptualisation of the core concepts: the situation was rife with exceptions, contradictions and confusions. Academic freedom for Afrikaans-medium universities meant alignment with the objectives of the state; for the liberal universities, it meant

disassociating from these; for other institutions (historically black universities, and technikons, who were subject to central control), traditions of academic freedom could hardly develop. The latter categories of institution had no autonomy for many years; English- and Afrikaans-medium universities apparently had a good deal of it. Yet under a larger view, their autonomy was deceptive, and in 1996, the National Commission on Higher Education (NCHE) was to characterise the entire higher education system before 1994 as one of 'state interference'[9]. The public accountability of institutions did not exist in any form recognisable to a democratic society, even in so far as accounting for the use of public monies went (all historically white universities were funded by formula and could keep unspent balances; all historically black universities and technikons were initially funded by a system of negotiated budgets and returned unspent balances; and it took until 1995 to bring all institutions within one funding system).

Second, traditions of academic freedom had variably deep or shallow roots, depending on which part of the system one looked at. Where roots were shallow, they were also of a variety unknown to, or contested by, the longer traditions.

Third, the concepts of academic freedom and institutional autonomy became tangled. The concept of '*volksgebonde*' is one illustration of this. Yet the confusion also extended to the liberal/open universities, as has been pointed out by André du Toit in a recent analysis whose insights warrant referencing at some length[10]. He notes that the 'categorical and unqualified assertion'[11] of the TB Davie formulation of academic freedom was made by the open universities at a time when all were overwhelmingly dependent on state funding to a much greater extent than would be conceivable today. Thus, apart from confronting the state on the issue of 'racial' admissions and staffing, other aspects of governance relationships remained relatively unaffected. Furthermore, the open universities still 'primarily understood their mission in continuity with a colonial heritage'[12] and in this respect 'a handful of black students and a few solitary black academic staff members in junior positions'[13] made no impact.

> *In the context of the time the TB Davie formulation must be understood in terms of a legacy of shared assumptions regarding the nature of the university as a community of scholars with institutional autonomy to be protected and sponsored by the state (even if the condition of such academic autonomy was supposedly [linked to abstention from politics]. It was Afrikaans universities like Stellenbosch, with their deviant aspirations to becoming a "volksuniversiteit", and then the apartheid creations of ethnic universities as ideological instruments of the state which introduced something like [the] model of the university as an instrument for national purposes. Ironically, it was this model – and not the classic notion of the "autonomous" community of scholars – which informed post-apartheid policy approaches to governance in higher education after 1994.[14]*

Du Toit cites a further consequence of apartheid for the liberal conception of academic freedom in South African higher education (discussed more fully elsewhere in this paper): the TB Davie formulation essentially conflated the concepts of academic freedom and institutional autonomy, directing attention continually at external threats to freedom, to the neglect of consideration of internal ones[15]. (One can perhaps observe that what is noted by Du Toit is a *tendency* associated with the formulation – certainly, an important tendency given that the TB Davie formulation still occupies a central position in the minds of many in South African higher education – but not a deliberate intention. The open universities themselves were aware that 'academic freedom, like other "great abiding truths", is only "abiding" in so far as each generation reinterprets and makes that truth its own'[16]; and were so reminded on occasion by TB Davie Memorial lecturers also[17].)

In sum, it can be said that, after 1994, policy makers for higher education, in broaching the nature of the state-sector relationship in the post-apartheid environment, had to bear in mind that the conceptual legacy with respect to academic freedom, institutional autonomy and public accountability, was fragmented along with much else in South African higher education.

Institutions too were variably positioned, both in terms of their starting points and their overall capacity, to apprehend a re-evaluation of these concepts in a completely new context.

3 CURRENT LEGAL AND POLICY CONTEXT[1]

3.1 Policy Consensus: the Point of Departure

The relationship between the South African state and higher education sector, as it formally prevails, is set out in the *White Paper* on higher education of 1997[18], and is given legal content by the *Higher Education Act* of 1997[19]. These documents encapsulate the consensus reached after 1994 between the state, the sector and various higher education stakeholders and role players, predominantly through the processes and report of the NCHE, a Green Paper (December 1996) and a Draft White Paper (April 1997) on Higher Education. Key elements of this consensus are recapitulated in brief here.

The *White Paper* supports an intention to transform higher education through the development of a programme-based higher education system, planned, funded and governed as a single co-ordinated system. This is to be achieved by the state, higher education institutions, and other role players, in a particular configuration of governance and guided by a particular set of principles (equity and redress; democratisation; effectiveness and efficiency; development; quality; academic freedom; institutional autonomy and public accountability).

3.1.1 Co-operative Governance

The system of governance selected for South African higher education is one of state supervision, as opposed to one of state control or of state interference. In systems of state control, the system is created and virtually wholly funded by the state, while key aspects of it are controlled either politically or bureaucratically (e.g. France). In a system of state interference, neither systematic control, nor intervention policy, is operative: typically, interference occurs when higher education institutions become sites of opposition to the development path of the state (e.g. apartheid South Africa). In systems of state supervision, the state assures academic quality and maintains higher education accountability by setting overall policy frameworks and goals, steering through a mix of directives and incentives, and monitoring achievement of policy objectives (e.g. various models in the UK, USA, Canada, Australia and the Netherlands).[20]

Specifically - and owing to special circumstances in post-apartheid South Africa which included a weakly integrated higher education system, weakly developed planning and regulative structures, and low levels of trust - the state supervision system in South Africa was conceived as a system of 'co-operative governance', in which government would not be a single agent, but would have a range of roles and obligations in a variety of co-ordinated arrangements. This choice was consistent with the South African *Constitution*[21] which declares that all organs of state (whether these be government departments, or any institution exercising a public power or performing a public function) must co-operate with one another in mutual trust and good faith. Accordingly, in the higher education sphere, co-operative governance advocated that while different interests exist and contestation is inevitable, governance should enable co-operative rather than conflicted negotiation of these differences. Given that no single actor could effect change, the responsibilities of governance partners must be clarified and new structures must be established to promote co-operative behaviour. Maximum participation of all stakeholders in as many decisions as possible was seen to be desirable.[22]

At the system level, co-operative governance meant elaborating a particular relationship between the principles of public accountability, institutional autonomy and academic freedom. First,

government would delegate to the institutional level authority over inputs and resource use, while demanding accountability for outputs. The state would drive the transformation of higher education using designated levers – in particular, steering mechanisms in the areas of planning, funding and quality - while respecting academic freedom, being transparent, and avoiding the micro-management of institutions. Autonomous institutions would work in a range of co-operative partnerships with a proactive government and with others – including national stakeholder bodies, regional higher education associations, student bodies, business, trades union and others – to fulfil their missions and deliver core functions of higher education.[23]

While formal responsibility for higher education, and for the allocation of resources, would remain with the national Department of Education (DoE), a statutory Council on Higher Education (the CHE) was established. The CHE was conceived as an independent, expert body to give strategic advice to the Minister of Education on matters of HE policy, in order to support the effective transformation and development of the system. This special role was seen to make the CHE the logical locus of responsibility with respect to external quality assurance (QA), alongside state responsibility for planning and funding the system.[24]

At the institutional level, co-operative governance meant a set of institutional structures and processes which would enable differences to be negotiated in participative and transparent ways, and would support governance principles of democratisation, effectiveness and efficiency. Most critically, institutional governance would comprise a council and a senate in a bicameral relationship. The council would fulfil fiduciary and oversight responsibilities in the public interest, and would include a majority of external members in order to do so effectively. The senate, comprising a majority of professional academics, would be accountable to the council for the academic and research functions of the institution. An institutional forum would be constituted as a representative stakeholder body to advise the council on issues of transformation and institutional culture.[25]

3.1.2 Academic Freedom, Institutional Autonomy and Public Accountability

In the South African policy and legal framework, **academic freedom** is a constitutional right. The *Constitution* follows the United States Constitution in holding academic freedom to be an aspect of freedom of expression. It provides that everyone has the right to academic freedom and freedom of scientific research, except where this constitutes propaganda for war, incites violence, or advocates hatred based on 'race', ethnicity, gender or religion[26]. While the right to academic freedom is therefore not absolute, the state must respect, protect, promote and fulfil it, or otherwise justify any infringement of academic freedom in terms of what is reasonable in an open and democratic society[27]. As already noted, academic freedom is likewise a core value of higher education policy, and the Higher Education Act, in making the senate accountable to the council for academic and research matters, effectively renders senate the guardian of academic freedom at institutional level[28]. The *White Paper* defines academic freedom thus (any critical review of this definition will be covered elsewhere in this paper):

> *The principle of academic freedom implies the absence of outside interference, censure or obstacles in the pursuit and practice of academic work. It is a precondition for critical, experimental and creative thought and therefore for the advancement of intellectual inquiry and knowledge.[29]*

Institutional autonomy is given effect in the higher education system principally through the mechanism of the institutional council which is accountable for governing the institution in order to satisfy both the institutional interest and the public interest, and subject to the provisions of the *Higher Education Act*[30]. The *White Paper* defines institutional autonomy so as to

suggest that, like academic freedom, autonomy is not absolute, but must be viewed in terms of: a) application and scope; b) capacity for responsible self-government; and c) public accountability as a countervailing principle (once again, the underlying assumptions of the definition are not discussed here):

The principle of institutional autonomy refers to a high degree of self-regulation and administrative independence with respect to student admissions, curriculum, methods of teaching and assessment, research, establishment of academic regulations and the internal management of resources generated from private and public sources. Such autonomy is a condition of effective self-government. However, there is no moral basis for using the principle of institutional autonomy as a pretext for resisting democratic change or in defence of mismanagement. Institutional autonomy is therefore inextricably linked to the demands of public accountability.[31]

The *White Paper* definition of **public accountability** frames accountability as a demonstration by institutions, to the state and to broader society, that they have used public money for the effective achievement of public policy goals. Implicitly, this definition references the political dimension of public accountability, which is that, in a democratic system, publicly-funded institutions serving social purposes are liable to render account to the people (the electorate) through government and Parliament (elected representatives).

Institutions are answerable for their actions and decisions not only to their own governing bodies and the institutional community but also to the broader society. Firstly, it requires that institutions receiving public funds should be able to report how, and how well, money has been spent. Secondly, it requires that institutions should demonstrate the results they achieve with the resources at their disposal. Thirdly, it requires that institutions should demonstrate how they have met national policy goals and priorities.[32]

3.2 Policy Implementation: the Departure from Consensus?

Following the formulation of framework policy and law in 1997, attention turned – particularly from 1999 onwards, under the influence of the Mbeki-led and delivery-focused government - to further policy development, to policy implementation, and to particular aspects of the application of the *Higher Education Act*. Fairly soon, cracks began to appear in the policy consensus just described, especially as variously nuanced understandings of institutional autonomy began to emerge. A sample of key developments and reactions they evoked are noted below for illustrative purposes. (The underpinnings, merits and demerits, of the various claims are not examined here, although critique is afforded by the discussion in Chapter 4.)

- Responses to governance crises: in the late 1990s, several higher education institutions displayed evidence of mismanagement and institutional governance systems threatened collapse, or collapsed. The Minister appointed an independent assessor in three of these cases (within the provisions of the *Higher Education Act* which requires the CHE to appoint an independent assessment panel of suitable persons, from whom the Minister may chose an independent assessor[33]). In 1999, the *Act* was amended to allow the appointment by the Minister of an administrator for a troubled institution, to perform governance and management functions in the institution for six months, with a permissible extension of a further six months. In 2001, this was amended again, to allow the appointment of an administrator 'to take over the authority of the council or the management of the institution' for a period not exceeding two years. In 2000, the Act was amended to require public institutions to secure council approval, and under certain circumstances, the Minister's concurrence, to enter into loan or overdraft agreements or to develop infrastructure. Concern arose within the higher education sector around these amendments because they were seen to set general limits upon the autonomy of all institutions, rather than to set particular limits according to the circumstances of particular institutions.[34]

- *National Plan for Higher Education* (NPHE 2001): while an overarching plan for higher education had been promised by the *White Paper*, the NPHE took a particular shape under the impetus of an 'implementation vacuum' the state attributed to an absence of regulatory instruments; to entrepreneurial initiatives by some institutions, with undesirable consequences for a co-ordinated system; and to shifts in student enrolments away from historically black universities. The NPHE also responded to a CHE Task Team's report on size and shape and provided the framework and mechanisms for restructuring the HE system. It set indicative targets for the size and shape of the HE system; indicated steps to ensure a diverse and differentiated system, including determination of institutional programme and qualifications mixes; and recommended some mergers and launched the process for restructuring the institutional landscape. Two key concerns were raised by the higher education sector and role players in response to the NPHE: first, the plan seemed to emphasise efficiency and responsiveness goals at the expense of democratisation, equity and redress goals (this refrain that has grown louder as the *Plan* has been implemented); and second, the implied degree and scope of state steering in the *Plan* seemed set to impinge directly on institutional autonomy.[35]

- Institutional audits by the Higher Education Quality Committee (HEQC): the HEQC defines quality in terms of both 'fitness of purpose' (quality within the context of national goals for the higher education system) and 'fitness for purpose' (quality in relation to a specified institutional mission); and requires institutions to address both aspects in their quality approaches. While 'fitness for purpose' has been an enduring definition of quality in South African higher education, 'fitness of purpose' has been more contested. Some see this definition as entailing a potential infringement on their autonomy, while others regard it positively as the natural corollary of the transformation imperative for higher education.[36]

- Accreditation requirements: the DoE approves the programme and qualifications mix (PQM) of public institutions (see below) and funds them if they are accredited by the HEQC (the DoE also registers all private institutions before they are allowed to operate, with HEQC accreditation as a precondition for this process). The South African Qualifications Authority (SAQA) registers each learning programme offered by an institution of higher education that leads to a qualification on the National Qualifications Framework (NQF), and requires that programmes be packaged in particular ways, with specification of learning outcomes and assessment criteria. The HEQC accredits institutions of higher education to offer programmes leading to particular NQF-registered qualifications by certifying that they have the systems, processes and capacity to do so; in relevant cases, this is done co-operatively with professional councils and Sector Education and Training Authorities (SETAs). These arrangements are seen by some as constituting an unprecedented set of approval barriers that bureaucratise the educational process and limit the freedom of higher education institutions.[37]

- Higher education restructuring: policy development focused in the period 2002-04, first, on programme rationalisation, programme and infrastructural co-operation, notably through the DoE's PQM exercise; and second, on the development of new institutional and organisational forms through mergers and incorporations. These developments provoked particularly strong reactions from elements within the sector. The PQM, for example, has been referred to as an 'inappropriate intervention' that represents the tipping over of state steering into state interference. The process of mergers and incorporations was ultimately a mandatory one, facilitated by amendments to the *Higher Education Act*, and driven by the political will of the state in the absence of voluntary solutions for transformation by the

sector. As such, it effectively set aside institutional autonomy in order to achieve the greater good of a transformed 'fitness of purpose' of institutions to meet national policy goals, priorities and targets.[38]

- Proposal for establishment of a National Higher Education Information and Applications Service (NHEIAS): in early 2003, the Minister of Education proposed a central service for the administrative application of admissions criteria to higher education applicants. The higher education sector expressed concern that any proposal for mandatory participation in the NHEIAS would severely compromise institutional autonomy, irrespective of proposals that autonomous institutions would necessarily continue to set their own admissions criteria.[39]

- New funding framework: the new funding framework implemented from 2004 allows the Minister of Education a large degree of freedom to change (within the context of government's Medium-Term Expenditure Framework) the definitions and values of all the framework's components. This includes definition of what constitutes research and teaching outputs; of what constitutes 'disadvantage'; of weightings attached to research and teaching outputs; of benchmark ratios for research and teaching outputs; and whether formal applications must be submitted for the use of research and teaching development funds. From a sectoral perspective, the powers of the Minister may significantly curtail autonomous choices on the part of institutions, whose input is mediated indirectly via their three-year rolling plans.[40]

- Proposals for student enrolment planning in higher education: in March 2005, the DoE published a recommended enrolment planning framework which aims to align institutional enrolment plans with: available resources and the constraints of the fiscus; with national human resource and research priorities; and with quality enhancement goals, especially in the form of improved throughput and graduation rates. The sector has expressed concern that the model may be an attempt to manage escalating costs in a one-dimensional way, and has proposed that the planning model be reworked to accommodate a more comprehensive set of issues, including: equity; limited opportunities for school leavers; under-preparedness of students; and others.[41]

4   RECENT AND CURRENT DEBATES

This section summarises some of the key recent and current debates around academic freedom, institutional freedom and public accountability in South African higher education. It treats these under separate headings which indicate the relative emphasis of the debates; however, the three topics tend always to be interlinked to some degree.

4.1   Academic Freedom Debates

Recent debates around academic freedom appear to have had a dual impetus: first, a self-reflective impetus within the academy, as it wrestles with developing a comprehensive conceptualisation of academic freedom for a post-apartheid South Africa; and second, a more politically inspired impetus, which examines the tricky links between academic freedom and institutional autonomy and enquires how these can best be understood in order to achieve higher education's traditional social and public purposes on the one hand, and to support the goals of a transforming society (social equity, economic development, democratisation, global competitiveness) on the other. These debates are accessed here by examining a core set of writings which reference each other, as well as branching out in different directions.

A starting point is afforded by the viewpoint of Graeme Moodie[42] (a foreign commentator on South African higher education) who argues in favour of discarding the use of academic freedom as a 'wooly blanket term' and rather distinguishing between three distinct claims which differ in their scope, importance and justification:

- Scholarly freedom: the 'negative freedom' of individual scholars to teach, research and publish without externally imposed restraint. The scope of scholarly freedom is limited to the extent that teaching must take place within an agreed curriculum and meet minimum standards of competence and relevance; that research must be carried out within the limits of available resources, and so on.

    The individual scholar benefits, of course, from the freedom, but the freedom is conferred for the sake of ends which extend beyond the satisfaction of individual scholars. The latter, therefore, cannot be invoked in order to deny or prevent the benefits to society.[43]

- Academic rule: the 'positive freedom' of groups of academics to exert their authority over academic affairs. The scope of this authority must allow for public enquiry, or criticism, and for limits on academic monopoly over major social issues, such as the balance between the conflicting and complementary goals of access and quality.

- Institutional autonomy: freedom from external interference in the running of higher education institutions. Moodie characterises this as a 'principle of convenience' and notes that:

    When it operates as a block to co-operation, co-ordination or structural reform of the system […] it becomes one of extreme inconvenience, the infringement of which, in itself, need not pose any threat to the important areas of scholarly freedom. If, moreover the infringement of autonomy is informed and guided by appropriate academic advice and understanding, then it need not even amount to an unreasonable limitation upon academic rule.[44]

Writing in 1997, Moodie concludes with the observation that, in South Africa, it is 'generally accepted to be necessary' that higher education transform, and that this is possible only if supported – 'and even enforced' – by (a democratic) government. Any criticisms of this government's policies and proposals should therefore be on the grounds that 'they are unwise, and not by indiscriminate reference to academic freedom'[45].

Eschewing any such indiscriminate reference, in 2000 André du Toit[46] argued that academic freedom was not under threat in South Africa from an interfering or repressive state. Instead, in an interrogation of the roles of 'critic and citizen', he found that more serious threats came at that time from within the academy: from inadequate practices and conceptions of academic freedom and freedom of speech; and especially from insufficient examination of the dominant liberal conception of freedom of speech as an individual and negative right. Du Toit juxtaposes the 'thicker' republican conception of free speech which sees freedom of speech as a duty of citizens and a precondition for a good society, and which emphasises the importance of following an argument wherever it leads, without fear of consequences. Du Toit argues that academics should exercise this positive right and duty in order to address internal threats to academic freedom.[47] These include: the rise of managerialism; the demise of collegial faculty practices; the absence of an appropriate conception of academic tenure; the failure to empower disciplinary discourse by engaging the needs of social and political accountability; and slowness to transform institutional cultures that have historically been colonised and racialised.

Mamphela Ramphele, in a commentary on the paper, sums up the implications of Du Toit's thesis this way:

> *Critics [of higher education reform] have to accept that their demands for the right to academic freedom raise questions about their willingness to play the role of responsible citizenship to enforce this right. Demands for greater public accountability are unlikely to diminish. The question is how we as academics manage ourselves to discharge our responsibilities while safeguarding our academic freedom.[48]*

In his paper, Du Toit suggested some of the challenges that face intellectuals as they seek to play their role in a transforming South Africa. In his view, these included 'colonial consciousness', 'repressed legacies from our apartheid past' which tend to surface in public discourse, and 'necessary shifts from a critical discourse of protest and resistance to that of policy formulation and implementation'[49]. In another paper of 2000, John Higgins[50] referenced a further challenge – or perhaps it can be viewed as a challenge that is bound up with those Du Toit identified - when he discussed the danger that academic freedom was nothing more than a 'received idea[51]' (a label without content) in South Africa. He cites a significant continuity between restricted definitions of academic freedom as offered in both pre- and post-apartheid society:

> *Wasn't it a given that the new democratic government […] would work to enhance academic freedom and to reverse the depredations the university community had suffered under the apartheid regime? The short answer is no. Despite the laudable intentions of the African National Congress (ANC) of transforming the higher-educational system into one that would eradicate all traces of apartheid division and promote access, redress, and the critical literacy necessary for a participatory democracy, the current policy - in the name of practicality – threatens to strengthen rather than relieve the authoritarian tendencies of previous policies. […It] has less to do, in practice, with the imperatives of democratic transformation and more to do with the imposition of current neo-liberal dogma. In this still evolving situation, there is a necessary forgetting of the oppositional role that the call for academic freedom has historically played in South Africa.[52]*

Higgins analyses the Van Wyk de Vries report, which in the early 1970s sought to define the nature of the relationship between universities and the apartheid state[53]. From this, he finds that the 'classical idea' of academic freedom as the autonomy of the university from state interference

– upheld at that time by the English-medium universities – was negated as a fallacy. The concept of academic freedom was accordingly distorted by the apartheid state as it 'tie[d] itself in knots[54]' trying to argue its own position as the right and the neutral position. The report favoured the view that the university was coherent with the nation and therefore did not stand completely apart from other spheres, such as the state and civil society. If the academic freedom of universities was enjoyed only so long as they did not jeopardise it by engaging in political ideology and public action that brought them into conflict with these other spheres, then, in Higgins's argument, any apparent autonomy enjoyed by institutions was deceptive.

The 'four freedoms' defined by TB Davie in the 1950s were the outcome of an oppositional discourse to that of the state, and became an alternative working definition of academic freedom in South Africa for more than 30 years. Yet, in Higgins's analysis the damage was done, and 'historical forgetting [of the classic ideal has made it] entirely reasonable to characterise any idea of academic freedom involving […] a necessary degree of autonomy from the state as "academicism"'[55] at a time when 'the ANC is seeking to achieve a far greater centralised control of the universities than any apartheid government dared to dream[56].

Higgins takes issue with Moodie's position that government intrusion on university autonomy is defensible when intrusion is by a 'good government', because he claims that this violates academic freedom *in principle*. In turn, he finds that the policy framework of the new government has effectively erased the content of academic freedom in the *White Paper* definition of it, by seeking to limit academic freedom to scholarly freedom:

> *While the paragraph correctly states that it "is a precondition […] for critical, experimental and creative thought and therefore for the advancement of intellectual inquiry and knowledge," the sentence is framed in such a way as to prepare for its denegation or qualification. If academic freedom "implies" the absence of outside interference, then that implication can always be contested. In strictly logical terms, a "precondition" can never be merely an implication.[57]*

He finds similar fudging in the *White Paper* definition of institutional autonomy which 'offers a traditional definition, only to then describe the conditions for ignoring it[58]' when it asserts that autonomy is no moral justification for poor governance. While Higgins agrees that autonomy and accountability are interlinked, he queries the constructions that are put upon public accountability when the political environment increasingly emphasises the instrumental purposes of the university in serving economic development needs.

The next step of this unfolding debate was a second paper by André du Toit, published in 2000[59]. In this, he interrogates Higgins's reassertion of the liberal discourse on academic freedom in post-apartheid South Africa, and undertakes some 'historical remembering[60]' of his own as to crucial moments in internal debates and struggles concerning the meaning and relevance of academic freedom. His key arguments and conclusions are as follows:

First, he observes that Higgins characterises official reports' references to academic freedom as constituting a 'received idea', but does not so characterise the 'classic idea' of academic freedom.

> *This amounts to a polemical assertion, a conjugation of emotive meaning by stipulative definitions – our **accepted** idea of academic freedom versus your **received** idea of academic freedom – rather than any serious attempt at self-reflective and critical analysis [of academic freedom in South Africa].[61]*

Second, in Du Toit's view, the reassertion of the oppositional liberal discourse on academic freedom in post-apartheid South Africa must be contextualised and historically reconstructed. Higgins pays no attention to the implications for academic freedom of, for example, the rise of

the new academic managerialism; or shifting enrolment patterns since 1994 which show that while the former 'open' universities have achieved overall equity in their student bodies at a relatively slower rate than other sectors of the higher education system, they have a relatively more equitable distribution of enrolments across all fields of study. Accompanied by silence on such issues, invocation of the liberal discourse may simply be outdated; at worst it may indicate:

> *[…] an unacknowledged hidden and reactionary agenda, continuing to invoke the moral high ground of anti-apartheid struggle while effectively holding out as much as possible against the impact of post-apartheid social and political realities.[62]*

Third, Du Toit draws conclusions from various contradictions and confusions contained in two internal struggles around academic freedom: the eponymously-named Conor Cruise O'Brien, and Mahmood Mamdani, 'affairs' at UCT.

The first incident concerned *who shall teach*. Battle lines were drawn between those who viewed the presence of O'Brien on campus (in 1986) as a defiance of the academic boycott and as a betrayal of the anti-apartheid struggle, and those who saw protests against his presence as an attack on academic freedom. An internal commission of enquiry affirmed the autonomy of the university to decide who may teach, but pointed out that mere assertion of autonomy was inadequate to address the complex set of internal issues. Du Toit therefore finds that the outcomes of this affair implied that institutional autonomy would no longer suffice as a core value in addressing issues involving academic freedom, and that some form of accountability was not necessarily incompatible with the practice of academic freedom.

The second incident concerned *what shall be taught*, and in particular *who decides what shall be taught*. A clash between interdisciplinary and disciplinary points of view culminated in the suspension of the head of an African Studies department from participation in the design of a faculty's foundation semester 'Africa theme'. Du Toit finds that this affair illustrated the incoherence of the traditional liberal discourse of academic freedom when applied to issues of internal accountability and academic authority over the curriculum.

Ultimately, he concludes by formulating a question that remains central to the HEIAAF Task Team's enquiry:

> *The key issue for the current practice of academic freedom is how to define and strengthen internal accountability, bearing in mind the growing pressure for forms of external accountability […] to bring our own intellectual house in order […]. If the liberal discourse on academic freedom no longer suffices, and if the TB Davie formula provides little guidance on the pressing issues of internal as well as external accountability, how then are we to conceive of these issues in more appropriate terms?[63]*

Du Toit has taken up his central themes in other papers, including at a Centre for Higher Education Transformation (CHET) seminar (March 2005) on 'Beginning the "Real Debate" on Changing Governance Relationships in Higher Education'. Here[64] he noted that recent deliberations had given evidence of a growing consensus in South African higher education on the need to distinguish more clearly between institutional autonomy and academic freedom. This promised a positive advance on the TB Davie formulation of academic freedom which had, on the one hand, led to a conflation of the two concepts in South African higher education, so that threats tended always to be expected from the outside, and especially from the state; and which, on the other hand, had afforded no help in the resolution of internal threats. (Other aspects of this paper are treated in Section 4.2.2 below.)

A number of commentators have added their voices to the academic freedom debate in ways that tend to underscore Du Toit's position on the necessity of academics' enacting their positive right of free speech and strengthening internal accountability. These commentaries have been made sometimes with explicit reference to Du Toit's ideas, and sometimes from the authors' own angle of vision.

As a first example, Roger Southall and Julian Cobbing[65] have examined the dismissal of a Rhodes University academic as a case study of 'administrative authoritarianism' which subjects individual academics to centralised control, and interprets their dissent as insubordination, while the administration itself remains largely unaccountable.

As a second example, Jonathan Jansen has described the 'self-imposed crisis of the black intellectual'[66], citing a range of factors as problematic. In his view, black intellectuals tend to stand in a different relationship to the state from their white counterparts, meaning they may be 'dominant in political terms but marginal in intellectual terms[67]'. They tend to be silent on social crises, such as HIV/AIDS, as well as higher education crises, for reasons which need to be guessed at but which suggest complexities in the identity and politics of black intellectuals. Also, as a consequence of equity pressures, young black academics are being promoted into professorships without any record of scholarship, and so being compromised as intellectuals. Jansen suggests that problems such as these can be addressed by a range of strategies that include creating forums in which public intellectuals can be free to exercise the right to criticism and action as a matter of course; as well as re-thinking the curriculum of public institutions to ensure that the values of critical engagement and public dissent are promoted.

As a third and final example, former Minister of Education Kader Asmal[68] has recently addressed what he calls the 'paradigmatic traps of the past' with respect to conceptions of academic freedom and institutional autonomy. Essentially he agrees with Du Toit's analysis of the need to reconceptualise academic freedom, while emphasising in particular how the 'positive, facilitating dimension of academic freedom places a number of social obligations on the part of academics[69]'. He itemises these as being: cultivating in students a deep respect for ideas, knowledge and truth; ensuring that scholarship and research are characterised by the distinterested pursuit of truth; and ensuring that research is not sacrificed to private profit (e.g. by way of contract research) or to political expediency (by failing to interrogate the policies and priorities of government, political parties and other social actors).

4.2 Institutional Autonomy and Public Accountability Debates

Debates around institutional autonomy and public accountability have, especially since 1999, sprung up in many different fora and under various auspices, including those of the CHE, SAUVCA, and CHET. The approach taken here to reviewing the material is one which examines two notable 'cluster debates'. The first of these is the 'conditional autonomy' debate which was elicited by the CHE 2001-02 enquiry into, and policy advice to the Minister of Education on, good governance in higher education. The second is the 'accounting for autonomy' debate which partly overlaps with the first, and which was sparked by the 41st TB Davie Memorial Lecture delivered by Jonathan Jansen at UCT in August 2004.

4.2.1 Cluster Debate 1: The 'Conditional Autonomy Debate'

In May 2001, the Minister of Education asked the CHE to provide policy advice on the effective governance of higher education institutions. While the focus of the investigation was on institutional governance (the role of councils, senates, institutional forums and executive

management), the research[70] understood system-level and institutional-level governance to be intersecting terrains. It therefore considered what the implications of a state-supervised system might be for good governance at institutional level, and examined the assumption that a high degree of institutional autonomy within a system of indirect steering is a necessary condition for academic freedom and a viable system of higher education. It found that there is a strong case for institutional autonomy in a developing country such as South Africa, which does not have the necessary conditions for effective central control (e.g. highly developed management information systems, a high degree of predictability in the variables influencing higher education development). At the same time, the case for institutional autonomy in South Africa does not rest on the market-based premises that underpin unbundling, commercialisation, competition and the substitution of profit for public revenue in developed systems. Instead, the South African case for institutional autonomy rests on recognition that our capacity to know all the possible consequences of, and alternatives for, regulation of higher education is limited, and that the best strategy for dealing with uncertainty is to monitor the performance of self-regulating institutions in the light of national transformation objectives.[71]

In seeking to specify the nature of a workable state-sector relationship in the South African transformation context, the CHE investigation found the concept of 'conditional autonomy' valuable. This concept, developed in the 1980s to describe realities in the contemporary governance of UK and European (state-supervised) higher education systems, and since applied in developing contexts such as Latin America, acknowledges that institutional autonomy may need to be exercised on condition that the institution fulfils national norms 'continually renegotiated in the light of public policy'[72]. Transposed into the context of post-apartheid South Africa, the CHE study found such a framework fitted the need for a South African system of higher education governance that would allow policy directions and their impacts to be negotiated flexibly to protect the freedom of higher education institutions to teach and conduct research on the one hand, and the public good on the other. It argued that absolute autonomy in public higher education is hypothetical: in reality, autonomy is always conditioned by the interplay of competing interests. In turn, competing interests can be managed within a framework that distinguishes the substantive autonomy of institutions to shape their own goals and programmes, and the procedural autonomy of institutions to determine the means by which these are pursued[73]. Procedural conditions set by the state on the substantive autonomy of institutions do not automatically impinge upon the right of academic freedom.[74]

> *What is needed [...] is a concept that moves beyond the idea of procedural and substantive autonomy as independent variables, and recognises that what is crucial is their particular combination [...] Thinking in terms of conditional autonomy allows recognition that, while institutions retain substantive autonomy (and their right to academic freedom), their procedural autonomy is tempered through state controls over such key procedures as funding and accreditation, in support of national policy objectives [...] Rather than setting up barricades of principle that tend towards polarisation, conditional autonomy provides a framework of discourse that allows these complex issues to be negotiated to common benefit.[75]*

Taken as a whole, the argument for applicability of conditional autonomy in the South African context brought into question whether an official policy of co-operative governance – which can be shorthanded as advocating the setting aside of vested interests for the achievement of common good goals - matched the truth on the ground. Accordingly, the CHE, in its policy advice, recommended promotion of debate on the vision and principles underlying the current policy and legislative framework for higher education governance[76].

Currently, conditional autonomy remains a contested concept in South African higher education, on a number of grounds. The first argument advanced against it was that simply reformulating the underlying values of policy so as to validate conditional autonomy as the *de facto* successor of

co-operative governance, was no solution to problems that had been encountered in implementing a policy of co-operative governance. Effectively switching horses in midstream to evade difficulties in reform was especially problematic, under this analysis, given that conditional autonomy does not fit within the theory of the state implicit in the South African *Constitution*. Furthermore, the conditional autonomy concept was interpreted as proposing a one-size-fits-all governance approach for all institutions, while failing to specify the conditions, circumstances and methods that would warrant incursions on autonomy.[77]

> *A case has not been made as to why conditional autonomy will lead to more effective governance than the co-operative governance model. Within a democratic state, there is really no choice between an imperfect model (co-operative governance) – democracy is by its very nature imperfect – and a model that fits as easily within an authoritarian state as it does in a democratic state – all depending on the vagaries of the minister of the day.[78]*

A workshop of institutions, convened by the CHE in February 2003 to discuss a range of issues arising from the governance study, identified a fair degree of discomfort with the concept of conditional autonomy. In part this was a 'semantic unhappiness' on account of the label whose qualifier – accurately or not - seemed to imply that substantive autonomy could be taken away under certain procedural conditions, or that institutional autonomy would be somehow conferred by the state on a sliding scale. In part, uneasiness was associated with the preoccupations of a sector grappling with (then) impending mergers: it was suggested that conditional autonomy might be properly viewed as an exception required by the history of higher education in South Africa, rather than the rule of state-sector dynamics. With this historical perspective in mind, it might be that a 'sunset clause' on conditional autonomy as a basis for state-sector relationships was desirable and necessary. Once South African higher education had restructured and refocused, it would be appropriate for the sector to reassert strongly the case for institutional autonomy, accompanied by a determination of self-regulation for those areas where full autonomy is meant to operate. Finally, workshop participants felt that conditional autonomy would always be a misleading term if not expanded and defined. A necessary first step in applying such a concept would be to arrive within the sector at a common understanding of it. Only thereafter might it be possible to define co-operatively the conditional elements of autonomy, and so to scope correctly the application of conditional autonomy at system and institutional levels.[79]

Subsequent commentaries and discussions on the concept of conditional autonomy have tended to reiterate particular themes and critiques. One – already alluded to - is the view that the proper point of departure for structuring the relationship between state and sector cannot be a term which diminishes institutional autonomy from the start, but must be the *Constitution*, which accords institutions a full measure of academic freedom. There is a concern that conditional autonomy permits conditionality to a degree where it renders the notion of institutional autonomy meaningless, and a view that 'to bastardise the concept of institutional autonomy in favour of its conditionalities is illogical'[80]. Some see conditional autonomy to be nothing more than a diluted description of recent state practice, which papers over the implications of these developments. In this context, it has been described as a compromise position that is especially dangerous because it assumes a benevolent state now and into the future[81].

4.2.2   Cluster Debate 2: The 'Accounting for Autonomy' Debate

Jansen's 41st TB Davie Memorial Lecture in August 2004 stimulated a new round of public debate on institutional autonomy and academic freedom in the months that followed it. The lecture set out to reflect on 'the single most important challenge facing higher education in South Africa - the uncertain future of institutional autonomy and academic freedom both as concept and practice in the post-apartheid university'[82].

In the paper, Jansen begins by citing an informal poll of incumbent and past vice-chancellors, and senior university administrators, who believed with only one exception that South African universities enjoy less autonomy under democracy than under apartheid. In attempting to understand the content of this loss of autonomy, the forces that enabled it, and the reasons for so little public outcry about the situation, Jansen makes certain assumptions. These include: that concepts of autonomy and academic freedom are neither recent nor peculiar to states in transition; that the state-sector relationship will always be contested and will lie somewhere between the extreme points of absolute state control and absolute autonomy; that while there is no uniformity in the relationship across states, there are new global conditions that tend to cast the relationship strongly around efficiency and performance ('accounting for autonomy'); and that the relationship is unlikely to be resolved because of ambivalence by both the state and institutions as to the purposes of higher education. In sum: the concept of autonomy 'needs to be rescued from both its liberal expression as unfettered independence and its conservative expression as a managerial reflex reaction to accountability'[83].

Taking as his starting point that academic freedom (negative right to absence of external interference) and autonomy (positive right to decide on core academic concerns) are two sides of the same coin, Jansen makes the following core arguments:

- Restructuring and the new policy/planning apparatus are less significant changes for higher education than the systematic erosion of autonomy through specific interventions that impose state curbs on who and what is taught, and how. He cites these as including: the PQM exercise and specific decisions by the state to close down existing programmes; approval barriers set for new programmes and qualifications by the DoE, SAQA and the HEQC; proposed central enrolment planning and enrolment caps; the NQF which requires programme packaging and specification of learning outcomes and assessment criteria in unprecedented ways; increasingly arbitrary funding decisions under the new funding framework (e.g. privileged funding for masters degrees by dissertation only); institutional audits that decide on the credibility of programmes, qualifications and even institutions; mandatory restructuring of institutions; proposed 'de-institutionalisation' of information through the NHEIAS; and the Ministerial appointment of an administrator in a troubled institution.
- Taken together, these interventions have altered universities' understanding of themselves and so tend to make state intervention of any kind more 'legitimate' than before. In addition, as 'steering' becomes 'interfering', the intellectual life of the university suffers because there is less experimentation with alternative programmes, and less diversity with respect to research and innovation.
- Incursions on autonomy have been legitimated in post-apartheid South Africa, first, on the basis of moral arguments and appeals to equity, redress and access; second, on the basis of necessary intervention in dysfunctional institutions, which have then been used to justify intensified steering measures for all institutions; and, third, on the basis of the global economy and associated systems of performance evaluation and accountability. However, there is no evidence that the state can best steer higher education institutions in the interests of transformation; instead there is the risk of ministers' acting on short-term political priorities, rather than long-term system gains.
- Attempts to negotiate academic freedom through compromise positions such as conditional autonomy are dangerous as it cannot be assumed the state will remain benevolent. One African nation after another has found that as the post-colonial state failed to deliver in the economic domain, and as the state then moved towards greater authoritarian behaviour, 'the first target was the university'[84].

- The higher education sector must therefore 'find a strategy to speak with one, binding voice on the question of autonomy as a common interest'[85] or continue to lose ground on the right to decide on core academic matters. To do so it will have both to strengthen internal governance and to address particular complexities, including the possible self-interest of historically black institutions who have accrued benefits from the democratic state, much as historically white institutions did from the apartheid state.

Responses to Jansen's address have sought to sharpen the focus of the debate flowing from the issues he raised, and especially flowing from various points of critique respecting the rigour with which he raised them. These points have been made in a range of fora, including a seminar (October 2004) convened by CHET, the Cape Higher Education Consortium (CHEC) and the Centre for the Study of Higher Education (CSHE - at the University of the Western Cape); the CHE Colloquium of November 2004; and a second CHET seminar in March 2005. The discussion below references viewpoints drawn from all of these, broadly following the chronology (although discussion of particular topics sometimes dispenses with chronology in favour of thematic cohesion).

Some commentators[86] have noted that Jansen seriously undercut his own argument by qualifying the list of examples he gave as infringements on autonomy:

> *I am not making the argument that some of these interventions were unnecessary or avoidable or intentionally pernicious; nor am I arguing that some of these interventions actually changed institutional practice.[87]*

If the state's interventions were necessary and unavoidable, then an argument seems ready-made for state steering adapted to the requirements of public accountability. The same is implied if such interventions as have been made have failed to yield any result at institutional level and raises the question of how steering must be adapted to institutional conditions.

In October 2004, Minister of Education Naledi Pandor[88] essentially made such an argument. She expressed the view that Jansen's argument is weakened by a blurring of the concepts of academic freedom and institutional autonomy, and a consequent failure to acknowledge government's entitlement to regulate higher education to ensure greater accountability for the use of public resources towards the attainment of broad policy goals. In her view, this acknowledgement must be the starting point of the 'real debate about the degree and nature of state steering, the balance between self-regulation and state regulation and the efficacy of the steering instruments'.

An open exchange on the CHET website[89] welcomed the Minister's initiation of the 'real debate' while highlighting the view that this ought to be premised on a differentiated notion of steering:

> *[It is about] how the state strengthens, or supports the weak, but not the terminally ill, while getting the strong to grow stronger […] A one size fits all policy approach, driven by the collapsing institutions, will not make us the African powerhouse we aspire to be.*

The idea of differentiated steering was advanced in a CHET publication of 2002[90], within an analysis of the failure of unidirectional comprehensive state policy in the post-1994 period, and the accompanying shift on the part of the state from co-operative governance to 'co-erced co-operation'[91]. This analysis has been updated in 2005[92], and finds, first, that the participation approach to higher education governance in South Africa was frozen at the symbolic stage owing to the weak infrastructural power of the state. Second, decisions taken at the highest level of state in response to global currents and resulting in the Growth, Employment and Redistribution

(GEAR) macro-economic policy, led to sectoral policies and approaches that asserted the 'hegemony of finance'. Third, this effectively pushed higher education into the market, while espoused policy still clung to the state steering model and the rhetoric of participation, equity and social justice. The result is a hybrid approach: a partially regulated market system of governance, with some residual features of co-operative governance. The reworked analysis concludes along with the original that in response to these developments:

> *A different notion of higher education transformation, based on a more targeted, differentiated, information-rich policy interaction between government, institutions and society has to be developed […] The shift from a comprehensive to a differentiated policy model is going to demand a more efficient government, together with a new approach to consultation. It will require that government is more sensitive to the self-regulating capacity of the higher education institutions and the consequences of the complex relations between higher education and society.[93]*

The notion of differentiated steering has been specifically linked by Ian Bunting to the application of performance measures (this idea has been further elaborated in CHET publications[94]). The idea is that it could be possible to grant higher levels of self-regulation to institutions performing better against specified measures, and lower levels to those performing more poorly. A key caution noted by Bunting is the need to do this without reinstating the old apartheid-era categories of institutions.[95] (A further caution – although not mentioned by Bunting or CHET - is likely to be the extent to which performance data collected will be complete enough and reliable enough to support differentiated decision making on the part of the state, in this rather literal version of 'accounting for autonomy' – or, for that matter, of 'granting autonomy on a sliding scale'. The weak infrastructural power of the state presumably remains a challenge to be resolved.)

For Martin Hall, the 'real debate' is less about differentiated steering and more about the overall degree and limits of it. Hall has taken issue with Jansen's central question ('are universities less autonomous than they were before 1994?') on three grounds: First, in his view, the question is ahistorical; he queries (as reminiscent of Higgins) whether there was *any* real autonomy prior to 1994 in South Africa and whether whatever autonomy there was before democracy is therefore suitable as a benchmark of principle. Second, he sees the question as superficial; he argues that no higher education institution is fully autonomous and state regulation of qualifications exists in some form in all systems. Third, he finds that the question tends to polarise state and sector, apparently on a mistaken assumption that academic freedom and autonomy can be made synonymous; he argues that they are distinct, and imply distinct responsibilities on the part of institutions and the state. Accordingly, Hall has suggested redefining the necessary question as being: 'are there limits to the legitimacy of legislation and regulation, and how should these limits be determined?'[96] (another question central to the HEIAAF Task Team's enquiry). In Hall's view, it is self-evident that public money must be accounted for against public policy objectives, including developmental ones. At the same time, real risks can be defined in the current environment in relation to this question. For example, it is far from clear that the state has sufficiently recognised the potentially undermining consequences of inappropriate state steering for educational and research processes. Second – as already mentioned in this paper – the state may have passed the limit of legitimate regulation through the PQM exercise.

Issues such as the ones raised by Hall have in turn prompted the idea that it is important to theorise changes in the nature of the post-apartheid state, and to locate the analysis of higher education within such a theory, especially in terms of clarifying implications for public accountability[97].

The relationship between state and sector received attention at the CHE Colloquium on *Ten Years of Democracy and Higher Education Change* in November 2004[98]. Three positions emerged, as might perhaps be anticipated from the unfolding debate described to this point. For some, strong state steering was entirely reasonable, in order to restructure and reconstruct higher education and to achieve *White Paper* goals. For others, the nature and extent of state steering had undermined academic freedom and institutional autonomy. A third group argued more pragmatically that there is inevitable contestation and tension in the relationship between the state and higher education: the balance between them is located on a fluctuating and contextually-based continuum, which requires continual re-examination and negotiation. While no one challenged the responsibility of the state to reverse the past, there was some trepidation that a high degree of steering could become a habit and ultimately a distortion, and that a weaker state might become even more authoritarian. However, while the need for self-regulation by the sector and individual institutions was expressed (and while the newly-established unified sectoral body, Higher Education South Africa (HESA) has committed itself to a higher degree of self-regulation than in the past), there was limited optimism about the chances of significant success for self-regulation. This was because the sector has no history of regulating identified areas and unacceptable practices, and because self-regulatory bodies tend by their nature to play a defensive role.

A more vigorous view on the imperative of self-directed transformation, on the basis of common values and a shared sectoral identity, has been offered by Loyiso Nongxa who argues that this is an essential pragmatic alternative to 'resist the ever-tightening [legal] web that is being woven around us'[99]. Accordingly, the stance he takes is very different from Jansen's:

> *An argument for constructive engagement is not the same as a position which argues that we are not at risk of serious limits on our autonomy – rather it suggests that we explore some of what is represented by these incursions and act accordingly [...] that we begin to offer ourselves and each other a self-defining set of conditions under which we have the right to invoke institutional autonomy. At the moment the conditions are defined for us. [...] Our right to academic freedom is asserted along with our right to institutional autonomy as long as we are able to demonstrate our commitment to the values enshrined in our constitution and bill of rights and in particular our commitment, as academic institutions, to [transform].[100]*

Nevertheless, according to Nongxa, effective self-directed transformation requires a clear conceptualisation of key ideas, with a recognition that they are historically and politically bound.

A key input on exactly this theme was made at the CHE Colloquium by André du Toit[101]. In this paper, he cautions that 'higher education systems and institutions the world over come in a striking variety of forms and mixes including their basic relations to the state and the political economy'[102]. Accordingly, one must be wary of invoking the concepts of institutional autonomy, academic freedom and public accountability as if they have constant meanings irrespective of their particular contexts of application, or as if they are fundamental norms that can be broken *in principle* (which was, he argued the line that Jansen had taken in his TB Davie lecture, and that Higgins has taken in the past).

> *In the absence of rigorous conceptual clarification there is a danger that this may amount to hypostatising the particularities and contingencies of local circumstances into general principles. [...] Similarly South African discussions of the role of the state in higher education tend to abstract from relevant differences in social and political contexts and to generalise across these as if the relation between the state and higher education is a constant e.g. parallels drawn between interference by the apartheid state and by the post-apartheid democratic state as similar violations of institutional autonomy/academic freedom [...] What, if any, difference does it make to the assessment of similar attempts at government interference/steering of higher education if this is undertaken by a legitimate and democratic state rather than an illegitimate and authoritarian state?[103]*

Du Toit suggests a range of ideal-typical variations which illustrate the complexity of the concepts and which might be pursued one by one for gains in conceptual clarity. For example, to what extent would the principle of public accountability apply, and what is the role and responsibility of the state, in the cases of: a public university funded by a mix of state subsidy, student fees, independent fundraising and endowments, vs. a state university entirely dependent on public subsidisation, vs. a completely commercialised enterprise of higher education run for profit, vs. a fully funded institution supported and controlled by a church or other civil society organisation? In which case can the principle of academic freedom be justified, either internally in relation to academic life, or externally in relation to society and the state, when variations include: the traditional (German) concept of professorial autonomy; the (Cambridge) system of collegial academic self-governance; the discipline-based practice of academic freedom with entrenched tenure and effective peer review; the dual system of a professorial senate and a representative council; the managerial paradigm of academics accountable to line managers with defined managerial objectives; and the state regulation paradigm of academics as functionaries of the public service? Du Toit concludes that the application of different principles is likely to overlap while both the state and higher education institutions are 'interactive moving targets'[104].

In November 2004, Jansen delivered the 40th Hoernlé Memorial Lecture for the South African Institute of Race Relations on the theme of 'when does a university cease to exist'[105] and wove a new – and, in the view of some, more constructive than formerly - strand into the developing debate. In this paper, Jansen argues that a university is not determined by government decree, by self-declaration, or by symbolic functions and routines of university life; but rather by the manner in which the 'intellectual project […] infuses its curriculum, energises its scholars and inspires its students'[106]. It ceases to exist when:

> *[…] state control and interference closes down the space within which academic discourse can flourish without constraint […] when it imposes on itself narrowing views of the future based on ethnic or linguistic chauvinism [… and] when it represents nothing other than an empty shell of racial representivity at the cost of academic substance and intellectual imagination.[107]*

In Jansen's view, for a range of historical reasons and by the criteria he offers, some South African institutions have never existed as 'universities' at all – yet the process of institutional restructuring has failed to reverse legacy damage, or to take the opportunity of strengthening 'serious institutions'[108]. Essentially (and in frank terms), he ascribes this lost opportunity to the political impossibility of having historically disadvantaged institutions once again 'at the bottom of the pile'[109].

André du Toit[110] has analysed this paper for what it reveals about the function and relevance of the concept of institutional autonomy:

> *In general Jansen's account and assessment [of the lost opportunity] depicts an interactive field of governance relations where the key options for restructuring the higher education sector were identified at the level of national policy, and where the potentially constructive interventions were launched by and/or in conjunction with the state but blocked and derailed by sectoral interests […] In this perspective the primary question does **not** so much involve individual universities with regard to the issue of their **institutional autonomy** in the face of possible intervention by the state; rather it involves the entire interactive realm of governance of the higher education sector as a whole and concerns the prior question of the **underlying conditions enabling viable institutions** which might then become **capable** of claiming institutional autonomy.[111]*

Du Toit concludes that claims to institutional autonomy inevitably differ according to the vantage point and interest involved in individual cases. As a simplification: weak institutions may

claim autonomy, yet it is risky to leave them to their own devices; strong institutions will claim autonomy yet cannot be permitted to pursue an unfettered course for self-serving reasons. Thus, from a sectoral point of view, the concern must be not only to defend the autonomy of so-called strong institutions, but to bring about the conditions in which weaker institutions may develop in order to stake their own feasible claims to autonomy. From the perspective of the state, proper recognition of institutional autonomy appears to require a differentiated approach taking into account the capacities of different kinds of institutions.

> *The TB Davie formulation tends to generate the wrong question: "Is the institutional autonomy of the universities under external threat by the state in post-apartheid South Africa in similar ways as it was under the apartheid regime?" In line with other recent discussions Jansen's Hoernlé Memorial lecture poses a more apposite question: "When does a university (cease to) exist?" This question points to key underlying issues to be addressed in current South African circumstances* **prior** *to raising the issue of institutional autonomy. The next question must obviously be:* **Who is to decide whether a university (ceases to) exist, and on what grounds?** *[…] This cannot be a unilateral decision [… but requires] a systemic practice of co-operative governance in higher education [by institutions, the state and a properly self-regulating sector] based on underlying social pacts linking the recognition of institutional autonomy as much with internal standards of peer-assessment and disciplinary accountability as with external requirements of financial and public accountability.*[112]

Du Toit's ideas in this paper thus begin to run into a stream which also includes the ideas of CHET, and associated authors, with respect to the need for differentiated policy and a reconceptualisation of governance relationships in South African higher education. These ideas were given renewed attention at the CHET seminar in March 2005, in a paper by Nico Cloete, Peter Maassen and Joe Muller[113]. The paper interprets governance as being the set of institutions governments use to govern society, and accordingly views higher education institutions as being involved in a social pact based on long-term socio-cultural commitments. In the current dynamics of change in South African higher education, a key question must be whether policy reformers are seeking to change the nature of the university (its rationale, identity, ethos), or to reinforce its existing characteristics through the reallocation of resources. A prior question (as posed by Jansen and Du Toit) is therefore: what is a university? One framework for examining these questions is provided by Johan Olsen's four stylised models of the university[114], summarised in the figure below (detailed figure provided in Appendix C: Some Additional Conceptual Frameworks). Each of the four models (or a mix of the elements in each) can be accommodated in a pact between the university and society, depending on the requirements of context.

Conflict / **Autonomy**	University operations and dynamics are governed by **internal** factors	University operations and dynamics are governed by **external** factors
Actors have **shared** norms and objectives	*The university is a self-governing community of scholars*	*The university is an instrument for national purposes*
Actors have **conflicting** norms and objectives	*The university is a representative democracy*	*The university is a service enterprise embedded in competitive markets*

Cloete, Maassen and Muller suggest that, in the South African case, there is currently a need to interpret more fully the roles of the university in society, so as to allow for differentiated governance relationships between the state and institutions and to shift from a pre-occupation with institutional autonomy to a focus on the connectedness of the various higher education actors.

Discussion of the set of ideas presented at the CHET seminar in March 2005 supported the formulation of consensus around what constitutes a university, and its claims to autonomy; while also arguing for the necessity to do so on a principled basis, rather than purely on the basis of a strategic, or tactical, unity between state and sector, which could render consensus vulnerable over the medium and longer term to the impact of social and political forces. [115]

5 SOME CONCLUSIONS AND LINES OF ENQUIRY

This section distils a preliminary set of conclusions from the overview of recent and current debates around academic freedom, institutional autonomy and public accountability in South African higher education. It links these to possible lines of enquiry that the HEIAAF Task Team investigation may wish to pursue, or be alert to, in the consideration of stakeholder submissions and in the determination of areas for commissioned research, given the Task Team's particular brief to stimulate debate and discussion in the interests of shared understanding on:

- The appropriate nature and modes of government involvement in higher education transformation[116].
- Appropriate relationships between government (and other bodies with higher education regulatory functions) and higher education institutions.
- Appropriate conceptions of institutional autonomy, academic freedom and public accountability, in general, and in the specific context of South Africa and higher education transformation[117].

The suggested conclusions and related lines of enquiry are consecutively numbered for convenient reference.

Conclusion 1: Status and Utility of 'Co-operative Governance'

Co-operative governance is a configuration of governance linked to the formal framework of the state in South Africa, and remains the formal policy for governance of South African higher education. However, co-operative governance is not the current reality of the state-sector relationship: the state appears to have modified it in practice, and even formerly vigorous proponents of co-operative governance now raise arguments in favour of modified concepts, such as differentiated steering on the basis of institutional performance. Questions must therefore be asked about the status of co-operative governance as a policy framework, and its conceptual and practical utility going forward.

1. Is co-operative governance in higher education a concept that can safely be dispensed with (practically, politically, ideologically)?
2. Are dynamics between state and sector sufficiently recast and/or conflicted to warrant the assessment that co-operative governance has failed and a new governance model is required?
3. Alternatively, are dynamics between state and sector sufficiently stable and/or predictable to provide the basis for a 'pragmatised' version/overhaul of co-operative governance? What would it look like and what qualifications, if any, would be necessary in its underlying vision and principles?

Conclusion 2: Theorising the State, the Context, and the University

It has been suggested that a re-evaluation of the policy framework for the state-sector relationship requires theorisation of changes in the nature of the post-apartheid state; yet this may be impracticable, given that the South African *Constitution* already implies a particular theory of the state. It could be more to the purpose to pursue a suggestion to theorise the context of the state-sector relationship, taking into account shifting dynamics over the last decade, and interpreting more fully the role of the university in a post-apartheid context.

4. To what extent does the framework of the *Constitution* provide, or limit, flexibility in theorising the role of the state in higher education, or the nature of the relationship between state and sector?

5. What dimensions of the nature and role of the university need to be interpreted more fully in context (and which ones, if any, have been neglected – or over-emphasised, or distorted - by policy and sectoral debates to date)?

6. Is an in-principle (theoretical) interpretation of the university's role required, or is it the in-practice (empirical) dimensions in specific cases that require examination?

Conclusion 3: Building Consensus around Core Concepts

There is currently no central conceptual consensus within South African higher education around the concepts of academic freedom and institutional autonomy. Public accountability is a less contested concept, but must be considered an element in the lack of consensus, as it functions effectively in the prevailing policy environment as a corollary of institutional autonomy. There is nonetheless a growing consensus on the need to distinguish between academic freedom and institutional autonomy, and this may provide a useful platform for the consensus-building process.

7. To what extent, and in what ways, does the lack of conceptual consensus threaten effective governance of the South African higher education system in practice? For example, is contestation hampering effective policy development or implementation? or is lack of consensus dissipating a rigorous focus on the consequences (intended and unintended) of policy?

8. How, and using what criteria, can competing theories and conceptions of academic freedom, institutional autonomy and public accountability, be evaluated for their appropriateness to contemporary South African higher education?

9. What distinctive conceptual elements, of academic freedom and institutional autonomy respectively, are already present in the debate?

Conclusion 4: Negative and Positive Rights of Academic Freedom

The concept of academic freedom incorporates negative and positive rights (or a mix of rights and duties). It is suggested that, in South African higher education, the negative right of freedom from external interference is emphasised with damaging consequences for both the conceptualisation and the practice of academic freedom. A detailed exploration of positive freedoms appears to offer a pathway i) to conceptual distinction between academic freedom and institutional autonomy and hence ii) to possibilities of greater consensus as to meanings, and iii) to a fuller apprehension of the public accountability of institutions and the social responsibility of intellectuals in the South African context.

10. To what extent does the TB Davie formulation of academic freedom remain paradigmatic in South African higher education, and for whom? What are the more and the less constructive legacies of this tradition in practice?

11. How can the contemporary range of internal and external threats to academic freedom be specified, classified and prioritised for South African higher education, in order to provide a basis for a newly contextualised formulation of academic freedom?

12. What are the implications of such an exercise for a positive assertion of academic freedom by South African institutions and their academics in particular areas (e.g. governance, curriculum, research programme, staffing)?

Conclusion 5: Conditional and/or Differentiated Autonomy

Conditional autonomy and differentiated autonomy emerge as two possible – and not necessarily incompatible - conceptualisations of autonomy in South African higher education, lying between the poles of absolute autonomy and absolute state control. The former concept emphasises negotiated limits of state steering and the distinctive roles of state and sector, within the broad framework of the public good; the latter emphasises differentiated policy and the distinctive nature of the university, within the broad framework of a social contract. The usefulness of these concepts for delineating in-practice aspects of the state-sector relationship should be explored.

13. To what extent are the concepts of conditional autonomy and differentiated autonomy convergent or divergent in their apprehension of the challenges facing South African higher education governance, policy making and policy implementation, and higher education quality and delivery?
14. These models claim to offer the 'right questions' as a starting point for a reconceptualisation of system-level governance (e.g. how can the substantive and procedural dimensions of autonomy be negotiated to common benefit? are there limits to the legitimacy of legislation and regulation, and how should these limits be determined? what performance measures could be applied to facilitate a differentiated policy approach? who is to decide what constitutes a university, and on what grounds? what are the underlying conditions enabling viable institutions to claim autonomy? and so on). How can these claims be weighed, compared and assessed?
15. To what extent do these concepts offer workable models for the governance of the South African higher education system (e.g. what issues of system capacity are raised by suggestions that the impacts of policy need to be continually negotiated between state and sector, or that autonomy should be applied on the basis of demonstrated institutional performance)?

APPENDIX A: THE STATE OF ACADEMIC FREEDOM AND INSTITUTIONAL AUTONOMY IN AFRICA

As an introductory observation, it can be noted that perspectives in other parts of Africa on academic freedom, institutional autonomy and public accountability, are seldom referenced in recent and current debates on these issues in South African higher education. Accordingly, these issues come to be raised in an appendix, rather than in Chapter 4 of this paper.

The reasons why continental debates have remained somewhat peripheral to South African debates up to the present, may perhaps be suggested. Prior to 1994, South African higher education was disconnected from higher education elsewhere in Africa. After 1994, South African higher education has found itself at a different stage of development: while South African state and sector have been caught up in higher education transformation, the state-sector relationship in some other African countries has faced some real crises in their own post-colonial and post-independence histories.

It is possible to predict a greater convergence in future debates on the issues between South African higher education and its continental partners, through the medium, for example, of the African Association of Universities, and other structures and processes in which the South African higher education community is now fully engaged.

The following paragraphs aim briefly to trace the trajectory (in concept and practice) of academic freedom and institutional autonomy in Africa, over the last 50 years or so.

1. According to a 1991 Human Rights Watch (Africa Watch) report, academic communities, and individual academics, became a vulnerable target of state repression in a wide variety of forms and in many countries in Africa after national independence. Forms of repression included, amongst others: restrictions on freedom of expression, association, assembly and movement; imprisonment, detention without trial, torture and execution; dismissal of staff and expulsion of students; and closure of universities.

   Governments of the left and the right, military regimes as well as civilian administrations, have felt threatened by the essential function of academics to exercise and to develop in their students, a spirit of critical enquiry […] and have not hesitated in lashing out at critical academics, particularly those in the social sciences and humanities […] The vulnerability of academics in Africa is compounded by the fact that African universities and research institutes are financed, owned and controlled by the state.[118]

   This report and other sources[119] describe the evolution of the university in Africa in key stages: i) slow progress by colonial powers to establish universities, and their ultimate establishment of universities along colonial (metropolitan) models; ii) confrontation after independence between the colonial academic heritage (in now independent and autonomous – and often national[120] - institutions) and the forces of nationalism; iii) conceptualisation of the 'Yesufu[121]' - or 'utilitarian', or 'development' - university in Africa, with the purpose of serving the development needs of society as formulated by political leadership; iv) shifts in the relationship between state and universities under pressure of a) growing state authoritarianism, b) fiscal crisis, and c) the insistence of foreign donors on budgetary discipline in combination with academic relevance conceived in terms of developmental logic; v) re-evaluation by the academic community of the utilitarian university, which had

rendered academics vulnerable to 'imposed notions of relevance' and 'subtle and open forms of intimidation'.[122]

2. The *Dar-es-Salaam Declaration on Academic Freedom and Social Responsibility of Academics* was adopted, on 19 April 1990, by the staff associations of six higher education institutions in Tanzania. The Declaration sets out: i) the right of every human being to education, and the role of education in the pursuit of human emancipation, tolerance and the development of critical faculties; ii) the obligations of the state and communities in ensuring access to education for all citizens; iii) the right of academics to conduct their work without interference, and to associate freely; and the right of students to study freely, to differ from their instructors in academic matters without fear of reprisal, and to participate in their governing bodies; iv) the obligations of the state to respect the rights and freedoms of academics; v) the right of higher education institutions to conduct academic affairs by democratic means of self-government; vi) the social responsibility of institutions to pursue the fulfilment of economic, social, cultural, civil and political rights of the people, to prevent the misuse of science and technology to the detriment of those rights, and to address themselves to the contemporary problems facing the society; and vi) the social responsibility of academics to fulfil their roles with competence and integrity, to promote tolerance, to contribute to the redress of historical and contemporary inequalities in the society, and to give their time to imparting education to disadvantaged sectors of the population.[123]

In the analysis of Issa Shivji[124], the *Dar-es-Salaam Declaration* is partly inspired by United Nations documents, such as the *Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education,* and their emphasis on universal rights and values. Yet, in addition, it seeks to recognise the historical and political specificity of the struggle for rights. It sees education as part of the broader political process of human emancipation, rather than as an instrument of development; it re-asserts the right of the academic community to generate its own conception of national interests and societal needs; it couples autonomy with social responsibility; and advances a politics which is at once anti-statist and community-based.

Thus the authority of the Declaration lies primarily in its potential to legitimate the struggle for academic freedom, rather than influence the setting of legal standards in a justiciable instrument.[125]

3. Academics from all sub-regions of Africa assembled in Kampala in 1990 to deliberate the state of academic freedom on the continent. There was agreement that structural adjustment policies embarked upon since the 1980s lay at the root of repression, and that four main actors were culpable in violating academic freedom: the state (increasingly authoritarian); civil society (sections viewed academia purely as a functionary of the state, or as purveyors of foreign ideology); the intelligentsia themselves (e.g. by means of hegemonic discourse and frameworks, hierarchical structures, political opportunism, failure to organise, etc.); and the donor community (conditionalities imposed on academic work). The *Kampala Declaration on Intellectual Freedom and Social Responsibility* was adopted on 29 November 1990 and was closely modelled on the *Dar-es-Salaam Declaration*.[126]

The *Kampala Declaration* provides a normative (non-binding) framework for assessing relationships between academia, the state, civil society, the donor community and within the intellectual community. It sets out in its 26 articles: i) the fundamental rights and freedoms of persons to participate in intellectual activity, as stipulated in the *International Bill of Rights* and the *African Charter on Human and People's Rights* (e.g. freedoms of expression, movement and association, freedom from interference and persecution); ii) the democratic right of

higher education institutions to self-government and independence in their conduct of teaching, research and administration; iii) obligations of the state (e.g. to take prompt and appropriate measures in respect of infringements of academic freedom; to ensure adequate funding to higher education and research; to desist from interference); iv) the social responsibilities of academics (to discharge their roles with competence and integrity; to promote tolerance and the spirit of equality, non-discrimination and democracy; to show solidarity with the intellectual community); and v) means of implementation (regular and systematic monitoring of academic freedom in Africa).[127]

4. An overview of the state of academic freedom in Africa in 1995 by the Council for the Development of Social Science Research in Africa (CODESRIA)[128], noted that the debate on what academic freedom is, and is not, remained open in Africa as elsewhere. However, it also observed some progress in Africa toward mainstreaming academic freedom as a human rights issue on its own terms (rather than viewing academic freedom as a composite of other basic human rights and freedoms). In particular it noted that the Constitutions of Ghana, Malawi and South Africa now explicitly provided for the protection of academic freedom.

5. A 2002 overview of academic freedom and social responsibility in higher education, from an Association of African Universities perspective[129], noted the following salient features:
    o   The notion of the university as one of the benefits of national independence continues to weigh heavily on the status of academic freedom and autonomy in most African universities. This is especially so because the university usually remains an integral part of the public service – with appointment of key administrators by the state; because its own resources and access to donor resources are limited; and because the state of economic development in Africa restricts involvement of the industrial sector in research.
    o   African scholars, although fully aware of their social responsibility in addressing the challenge of their societies, continue to fight for recognition of autonomy and academic freedom in an environment where the threshold of these is relatively precarious. Constraints are both political and financial and are still related to the consequences of structural adjustment which reduced resources provided to public universities.
    o   International co-operation presents an opportunity for enhancing the exchange of experiences and breaking down the isolation of academics in Africa.

6. Nevertheless, Africa has, from the 1990s on, experienced a wave of political and economic liberalisation which is yielding some positive results for the assertion of academic freedom and institutional autonomy - with obvious exceptions, for example, in countries that remain under dictatorships[130]. (Egypt provides another exception, for different reasons having to do with issues more specific to the Arab world[131].)

    [In Sub-Saharan Africa] **legitimate** *nation building and development are now viewed, by definition, as democratic processes. This paradigm shift came about as a result of the failures of the authoritarian model, the impact of intellectual critics against it, and the multiple struggles for democracy involving social movements in which many students [and] academic staff unions allied with other civil society organisations.[132]*

7. In the analysis of Paul Tiyambe Zeleza[133], the shift from the development university of the 1960s and 1970s, to the 'market' university of the 1980s and 1990s (with attendant shifts from state control models, to state supervision models; from a state focus on inputs, to a focus on outputs, etc.), has meant that threats to academic freedom in Africa have become less political and more economic – although both are in evidence, depending on the context.

Zeleza identifies six trends that characterise the 'contemporary capitalist globalisation' of higher education and argues that these have had an impact on higher education in Africa as elsewhere. The six trends are: i) corporatisation: market ideology and managerial notions of efficiency, accountability and relevance are reinforced in higher education; ii) collectivisation of access: massification facilitates diversification of programmes and people on campus, while more frequent interventions by external stakeholders threaten to erode traditional values of autonomy, academic freedom, liberal education and quality; iii) commercialisation: the enterprise culture makes universities more responsive to the needs of the economy and national competitiveness, but erodes some of the broader social purposes of higher education; faculty becomes increasingly divided between those in the marketable disciplines (with higher salaries and benefits) and those in the marginalised disciplines (growing numbers of part-time and poorly paid academics); iv) commodification of knowledge production: universities may attract resources from industry and donors as public funds dry up, but at the expense of undue interference and the application of proprietary principles in research; v) computerisation: online education is increasingly promoted, while the benefits for pedagogy and quality may not be properly explored; vi) connectivity of institutions: increasing emphasis on institutional co-operation and co-ordination within and across countries may emphasise static competition (incremental efficiency gains out of the existing configuration of resources), rather than dynamic competition (problem-based collaboration in core academic areas to transform institutions and existing hierarchies). While noting that global trends afford some opportunities for the exercise of academic freedom, Zeleza summarises threats to it as being in the areas of: student access and solidarity; disciplinary differentiation and devaluation; integrity of research and publishing; management and security of tenure; and permeability and dilution of institutional traditions. He notes further that struggles for academic freedom in Africa must continue to be directed against authoritarian tendencies embedded in institutions themselves, and against various hegemonies within and without the academy (e.g. dominance of Eurocentric intellectual frameworks, European languages, male gender, etc.).

8. East African higher education provides one case study example of the unfolding conceptualisation and practice of academic freedom and institutional autonomy in Africa over the last five decades. David Court[134] has described the trajectory of university governance since the 1960s.

   o An apparent early post-independence consensus as to university autonomy along 'Oxbridge model' lines, proved vulnerable as economic and employment conditions declined, and in the absence of proper articulation in the African context.

   o The resulting 'development university' was self-consciously linked to the goals of the society; this took concrete form. As examples: community service formed part of the undergraduate curriculum, was a criterion on admission and an obligation on exit. Advanced degrees and research opportunities could be accessed through special institutes linked to specific national needs. Project funding and priorities led to contract research where the new peer reference group became programme officers in external funding agencies or partner functionaries in government.

   o From the 1980s, faith declined in the development university, occasioned by substantial demographic and economic pressures. Now government interest in higher education became predicated on the political legitimacy that universities afforded the state. Universities became almost exclusively dependent on government for their recurrent and development expenditures at the same time as overall subventions declined and enrolments abruptly increased. Political control grew, including (e.g. in Kenya) the denial of financial sponsorship to students critical of government.

o From the mid-1990s, the onset of democracy in Kenya, Tanzania, Uganda and Mozambique, combined with economic liberalisation, has enabled a new degree of self-assertion on the part of universities (although change remains spasmodic and variable across the countries). Changes include new legislation, reduced role of the state in university appointments, and re-cultivation of an academic culture (merit appointments and basic research). However, new and old threats to academic freedom and autonomy remain – e.g. as centralist tendencies remain strong; as private providers mushroom at the expense of poor students; as external agencies 'rediscover' universities and place various restrictions on research; as a culture of corruption gains hold; as the brain drain continues; etc.

o The East African experience suggests that, in order for academic freedom and institutional autonomy to flourish in Africa, the following are necessary: a relatively democratic, benign and sympathetic government; a relatively stable macro-economic environment (including as a basis for negotiating with external funders); a vigorous research climate; merit selection in all areas of the university; and peer review in the academic domain.

APPENDIX B: FURTHER COMPARATIVE PERSPECTIVES ON ACADEMIC FREEDOM, INSTITUTIONAL AUTONOMY AND PUBLIC ACCOUNTABILITY

This appendix sets out some formal definitions and formulations of academic freedom, institutional autonomy and public accountability, for comparative purposes.

1. International law requires states to respect academic freedom as a principle based on a series of basic and widely accepted human rights. In addition, in many countries, domestic law provides explicit protection for academics. The principle of academic freedom stems in part from the internationally recognised right to education enshrined in Article 26 of the 1948 *Universal Declaration of Human Rights*, and the 1966 *International Covenant on Economic, Social and Cultural Rights*. The Committee on Economic, Social and Cultural Rights, which interprets the *Covenant*, has stated (1999) that the right to education can only be enjoyed if accompanied by the academic freedom of staff and students; and, in turn, that academic freedom requires the autonomy of institutions of higher education (defined as 'that degree of self-governance necessary for effective decision-making by institutions of higher education in relation to their academic work, standards, management and related activities'). The Committee defines academic freedom as encompassing a series of other widely accepted human (civil and political) rights, including freedom of opinion, expression, association and assembly. While governments are the primary protectors of academic freedom, the Committee also places duties on individuals (to respect the academic freedom of others, to ensure the fair discussion of contrary views, to treat all without discrimination) and on institutions (to be accountable for management of state funding, to ensure fair, just, equitable, transparent and participatory institutional arrangements).[135]

2. The International Association of Universities (IAU) 1998 *Statement on Academic Freedom, University Autonomy and Social Responsibility* reiterates three indissociable principles (first stipulated by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in 1950) for which every university should stand: the right to pursue knowledge for its own sake and to follow wherever the search for truth may lead; the tolerance of divergent opinion and freedom from political interference; and the obligation as social institutions to promote, through teaching and research, the principles of freedom and justice, of human dignity and solidarity, and to develop mutually material and moral aid on an international level. With reference to fundamental principles as reiterated by the international academic community in various Declarations (including Lima 1988, Bologna 1988, Dar-es-Salaam 1990 and Kampala 1990) and the 1997 UNESCO *Recommendation Concerning the Status of Higher Education Teaching Personnel*, the IAU statement sets out a 'new social contract' of mutual responsibilities, rights and obligations between the university and society. It notes that new demands have been placed on universities by such factors as: new forms of higher education, massification, the emergence of a world economy and technological advancement. To meet these, universities have to claim academic freedom and institutional autonomy as basic and inalienable conditions of scholarship, while fully recognising their obligations to society (excellence, innovation, ethics, tolerance, accountability, self-review, transparency in self-government).[136]

3. The 1998 *World Declaration on Higher Education* frames its second article around the ethical role, autonomy, responsibility and anticipatory function of higher education, as follows:

In accordance with the Recommendation Concerning the Status of Higher-Education Teaching Personnel approved by the General Conference of UNESCO in November 1997, higher education institutions and their personnel and students should:

(a) preserve and develop their crucial functions, through the exercise of ethics and scientific and intellectual rigour in their various activities;
(b) be able to speak out on ethical, cultural and social problems completely independently and in full awareness of their responsibilities, exercising a kind of intellectual authority that society needs to help it to reflect, understand and act;
(c) enhance their critical and forward-looking functions, through continuing analysis of emerging social, economic, cultural and political trends, providing a focus for forecasting, warning and prevention;
(d) exercise their intellectual capacity and their moral prestige to defend and actively disseminate universally accepted values, including peace, justice, freedom, equality and solidarity, as enshrined in UNESCO's Constitution;
(e) enjoy full academic autonomy and freedom, conceived as a set of rights and duties, while being fully responsible and accountable to society;
(f) play a role in helping identify and address issues that affect the well-being of communities, nations and global society.[137]

4. Higher education systems that are state supervised (as is the South African system), define and approach academic freedom, institutional autonomy and public accountability in ways that are individual, although conceptually related[138].

    In **Australia**, academic freedom and tenure were traditionally regarded as guaranteed. In recent years, given sweeping budgetary cutbacks and the commitment by the federal government to commercialise universities, the National Tertiary Education Union has urged its members to include intellectual freedom articles in their local enterprise agreements. The University of Sydney was the first to do so in a statement that notes academics' right of free expression as professionals (with regard to the academic discipline, the university, and the higher education system) and as citizens without fear of retaliation. The statement expresses academics' right to participate in collegial governance and in other bodies such as trades union. It notes that the right to express unpopular or controversial views does not imply the right to harass, vilify or intimidate. Australian higher education was restructured in the late 1980s, in order to do away with centralised Commonwealth (federal) bodies overseeing the sector, and to encourage more entrepreneurial universities. While universities gained more freedom over the creation of courses and over internal administration, the volume of central government regulation has subsequently increased (e.g. regulation around the terms of universities' operating grants, student policies, equity requirements and quality assurance).

    In **Canada**, neither the federal nor the provincial governments have passed legislation defining academic freedom, although statements on academic freedom have been adopted by the Association of Universities and Colleges of Canada (AUCC), and by the Canadian Association of University Teachers (CAUT). The AUCC statement recognises that threats to academic freedom may be as much internal as external; underscores the importance of tenure as a safeguard on academic freedom; and balances rights with duties (e.g. of ethics, tolerance, and accountability). CAUT has moved for the inclusion of a commitment to academic freedom in the contracts of academic staff, in the absence of legislation. Its model statement for this purpose includes, alongside reiteration of traditional commitments to freedom in teaching and research, the right to criticise university administration and the academic staff association. In Canada, education is a provincial responsibility, although the federal government contributes considerable funding through block grants to the provinces. Some clear limits on institutional autonomy are effected through provincial review boards and

budgetary mechanisms. However, the Supreme Court of Canada has ruled that universities are not agents of government.

In **New Zealand**, academic freedom and institutional autonomy are defined in the *New Zealand Education Act*, Sections 161 and 162. In relation to the institution, academic freedom is:

a) the freedom of academic staff and students, within the law, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions; b) the freedom of academic staff and students to engage in research; c) the freedom of the institution and its staff to regulate the subject-matter of courses taught at the institution; d) the freedom of the institution and its staff to teach and assess students in the manner they consider best promotes learning; e) the freedom of the institution through its chief executive to appoint its own staff.[139]

In exercising their academic freedom and autonomy, institutions are required to act in a manner that is consistent with:

a) the need for the maintenance by institutions of the highest ethical standards and the need to permit public scrutiny to ensure the maintenance of those standards; and b) the need for accountability by institutions and the proper use by institutions of resources allocated to them.[140]

The Act requires universities to 'accept a role as critic and conscience of society' and to be:

Characterised by a wide diversity of teaching and research, especially at a higher level, that maintains, advances, disseminates and assists the application of knowledge, develops intellectual independence and promotes community learning.[141]

In the **United Kingdom**, academic freedom was customarily guaranteed through traditions of institutional autonomy. It was articulated in law for the first time in 1992, after incursions on autonomy by the state via the *Education Reform Act* of 1988 and the *Further and Higher Education Act* of 1992. This formulation of academic freedom, in an amendment to the 1988 legislation, is as follows:

The freedom within the law [of academics] to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions.[142]

From the point of view of individual academics, the most serious blow to academic freedom has been the abolition of tenure, which formed part of the Thatcher government's neo-liberal recasting of the relationship between state and higher education sector. Key features of this relationship have continued up to the present and include directed funding, performance accountability measures, and comprehensive auditing. The system emphasises efficiency and accountability of autonomous institutions with delegated decision-making power, although the mode of state steering has in many ways tended to shift control of teaching and learning towards the centre.

In the **United States**, the Supreme Court has applied the US Constitution's First Amendment protections of free speech to the actions of government with respect to universities. In addition, two kinds of procedural practice safeguard academic freedom. The first is the (1940) statement on, and associated (1970) interpretations of, the American Association of University Professors (AAUP) on the practice of academic freedom; the second is contract law, as most American universities in their by-laws or contracts set out a commitment to academic freedom. American universities have a considerable degree of

autonomy thanks to a combination of factors that include: a federal system of government, a strong private university sector, and independent accreditation bodies. Nevertheless, universities are subject to the law and to the budgetary limitations of state and federal governments. Where rights collide, the courts usually engage in some form of balancing.

APPENDIX C: SOME ADDITIONAL CONCEPTUAL FRAMEWORKS

This appendix notes, for interest, a range of conceptual frameworks for academic freedom, institutional autonomy and public accountability, as suggested in the literature. Frameworks are grouped in terms of the concept which they emphasise, and are thereafter presented in sequential date order (with one or two exceptions, for thematic coherence).

Academic Freedom

1. Gerlese Åkerlind and Carole Kayrooz (2000)[143] have suggested an 'inclusive hierarchy of awareness of different aspects of academic freedom' based on an empirical analysis of understandings by social science academics in Australia. Their categories suggest that academic freedom can be understood as a simple absence of constraints (with the emphasis on 'freedom from' [interference]), or as a mix of constraints, supports and responsibilities (with the emphasis on 'freedom to' [exercise responsibility]). While no one way of experiencing academic freedom is inherently better than another, Åkerlind and Kayrooz suggest that the inclusive nature of the relationships between the categories indicates that those higher in the hierarchy represent a more complex awareness of the various aspects of academic freedom. The hierarchy of categories is (progression from simple to complex):
   o An absence of constraints on academics' activities.
   o An absence of constraints, within certain self-regulated limits.
   o An absence of constraints, within certain externally-regulated limits.
   o An absence of constraints, combined with active institutional support for academic work.
   o An absence of constraints, combined with responsibilities on the part of academics.

2. Jan Currie (2001)[144] has examined the contemporary range of restrictions on academic freedom that do not take the form of direct attacks on individuals or institutions, especially as these have played out in the privatisation of Australian public universities. She finds that these restrictions may be subtle and indirect, but have dramatic effects. They include:
   o Attack on tenure, which dampens the environment for academics to use their freedom to criticise.
   o Commercialisation, which changes the ethos of the university through competition pressures that may result, for example, in closures, amalgamations, retrenchments, threats to disciplines that generate lesser income, reliance on international students and fee-based courses to the detriment of academic standards.
   o Changing forms of accountability, which alter the nature of institutional governance structures, introduce managerial modes in administration and accompanying hostility to internal criticism, and limit time available for academic activities of critical engagement.

   Possible protections to academic freedom in such an environment include: legislative guarantees; requirements within the process of institutional audit for assessing intellectual freedom, and for ensuring that commercialisation decisions are in the public interest; introduction of a sectoral ombudsman; and the exercise by academics of critical loyalty to their institutions through, for example, public critique and research into the impact of 'best practice'.

3. Carole Kayrooz and Paul Preston (2002)[145] have studied the academic freedom of Australian social scientists in an increasingly commercialised university environment. Consistent with Currie's analysis as discussed above, they find that academics cite a range of conditions that undermine their academic freedom. These include: intensification of work at the expense of

quality; pressure to choose 'safe' research topics; the erosion of intellectual capital as courses are altered to attract funding, and as intellectual capital is commercialised as 'institutional property'; the erosion of student standards as 'ability to pay' appears to take precedence over 'ability to pass'; and increasingly corporate modes of governance. However, Kayrooz and Preston argue that these perceived constraints can be made to represent opportunities for the exercise of academic freedom. This requires reconstituting traditional concepts of academic freedom in response to those influences that are not related to commercialisation *per se*, but are rather related to changing requirements of knowledge production (so-called 'Mode 2' knowledge production that is transdisciplinary, entrepreneurial and applied to problems in specified contexts).

There is no simple correspondence between [new modes of knowledge production] and managerialism, but properly managed, [these modes] can shift the balance from work intensification to work quality; from the "exchange" value of knowledge to innovation; from "commercial-in-confidence" arrangements to knowledge partnerships; and from the commodification of teaching to the development of intellectual capital. The world envisaged by [new modes of knowledge production] encourages university administrators to set up a management structure that facilitates, rather than controls, innovation. At the same time, it encourages academics to engage with society.[146]

4. Balakrishnan Rajagopal (2003)[147] has argued that a focus on constitutional rights for individuals remains inadequate as a framework for protecting the academic freedom of all scholars in the United States. In the US, academic freedom has traditionally been defended i) as a constitutional and legal right under the First Amendment [right to freedom of expression; the South African *Constitution* follows the US in classifying academic freedom as part of the right to freedom of expression[148]]; and ii) as an institutional right of the academy. Yet the US government has not hesitated to take action against expressivity in the interests of national security, often with the support of the Supreme Court. It is also problematic that constraints imposed on individual members of the academy can be seen as adversely affecting the right of the academic body as a collectivity; or conversely, that the academic body can disown individual academics with whose views it does not agree, leaving them without legal protection for their expressive freedoms.

A better approach [than to defend academic freedom as a constitutional right] is to defend academic freedom as a human right. To say that something is a human right is to assert two things; first, that protecting such a right does not depend on national legal systems, but on international law; and, second, that transnational action, including that by international agencies, becomes legitimate for protecting such rights [...] Academic freedom can be asserted as a human right in two ways. One is to defend it as a human right to free expression; the other is to defend it as a human right to education [each of which is protected by international covenants].[149]

Rajagopal notes that both the US and South African constitutions define academic freedom as a subset of a larger category (freedom of expression) that needs no special protection. Yet he advocates the benefits of viewing academic freedom as a right to education with individual and collective dimensions that can only be discharged through complex relationships between students, faculty, institutions, the government and society.

A human right to education injects an ethical dimension into academic freedom by broadening the objectives of education. That is, academic freedom exists so that individual professors and their institutions can pursue important educational objectives. Conversely, the right to academic freedom can be defended as an essential part of a right to education. In other words, academic freedom is not simply an individual right to something, but it is also a collective right for the realisation of important societal goals. In our global age, these goals are themselves global, embodied in the idea of human rights.[150]

5. Mary Henkel (2005)[151] has examined the implications for academic freedom of shifts in academic identity, using empirical research with biological scientists in UK universities as a basis. She finds that higher education policy has tended to make the higher education institution a more distinct and powerful entity in academia, and thus also an instrument of fragmentation as the role of the academic department in melding the institution and the discipline in the lives of academics has been challenged and sometimes diminished. She notes that the right of academics to determine their own agendas must now be set against competing rights and pressures exercised by institutions and society.

    Academic autonomy has become something that must be realised by managing multi-modality and multiple relationships in a context where boundaries have either collapsed or become blurred.[152]

    (In the South African context, Rob Moore (2003)[153] has also explored shifts in academic identity. Although he does not explicitly explore associated issues of academic freedom, the analysis is consistent with Henkel's. He finds that academics in two South African universities, each constructing a biotechnology curriculum, demonstrated differing orientations towards disciplinary and institutional identities and engaged in cross-boundary negotiations in fundamentally contrasting ways, depending on the local social, political and institutional context and the possibilities it afforded for negotiating new regulative conditions.)

Institutional Autonomy

6. Robert Berdahl (1990) suggests that:

    *Autonomy in its complete sense means **that power to govern without outside controls**, and accountability means **the requirement to demonstrate responsible actions to some external constituenc(y)ies**. In theory, the argument has been made that there is no necessary incompatibility between being both highly autonomous and rigorously accountable; in practice, one senses that usually where more accountability is required, less autonomy remains. The ideal to be sought seems clearly a balance of both conditions.[154]*

    If such a balance is to be achieved, he argues that a more nuanced definition of terms is desirable in order to unpack the complex notion of autonomy: i) substantive autonomy: 'the power of the university or college in its corporate form to determine its own goals and programmes … the *what* of academe'; and ii) procedural autonomy: 'the power of the university or college in its corporate form to determine the means by which its goals and programmes will be pursued – the *how* of academe'.[155]

    These definitions may provide the basis for negotiating a proper balance in the respective roles and responsibilities of the state and higher education institutions, including:
    o   The 'essential ingredients' of autonomy: following Eric Ashby (1966), Berdahl suggests these include: freedom to select staff and students and determine conditions under which they remain; freedom to determine curriculum content and degree standards; and freedom to allocate funds within amounts available across different categories of expenditures[156].
    o   The most desirable form of higher education co-ordination: following Burton Clark (1979), Berdahl introduces options for co-ordination: political, bureaucratic, collegial/academic and market[157].

7. Göran Blomqvist (1997)[158] distinguishes between the concepts of autonomy (which he tends to equate with 'ivory tower') and heteronomy (which he tends to equate with 'ship of state'):

Autonomy, which I use synonymously with academic freedom, means that scholarship is pursued for its own sake, with its own organisation and a system of thought and rules that only academics can judge. Outside considerations are not permitted to influence the choice of problems for study, how they are handled, and how data are interpreted. Scholarship is not to be subordinate to the aims of society but must develop by its own efforts. It has an institutionalised right to point out errors – and to be disobedient. According to the opposite view, heteronomy, science and scholarship receive value as a means of realising the practical wishes of society and should be subordinate to the aspirations of others. From this standpoint, the progress of research depends on social circumstances.[159]

In an analysis of the process of academic professionalisation in the Swedish universities of Uppsala and Lund between 1820 and 1920, Blomqvist finds that 'the demand for autonomy after the turn of the century reflected the university teachers' defence of professional values'. Yet, when internal divisions and threats to the academy were difficult to handle, universities opted on occasion to transfer decision-making to a higher level in the 'hope of guaranteeing an overall, objective view'. He finds that two academic visions tend to come into play. One emphasises responsibility outside science and scholarship, and the role of the scholar as a bearer of culture; this view is more prepared to accept heteronomous principles. The other model is more self-conscious and oriented towards the professional interest and status of academics as a body.[160]

8. Alberto Amaral and Antonio Magalhães (2001)[161] provide an analysis of the changing relationship between governments and higher education institutions in Europe in recent decades. In particular, they note that mechanisms of steering and regulation have moved away from the model of centralised control and allowed more institutional autonomy. Yet, even if government has tended to use an increasing array of market and market-like mechanisms, it has not really stepped back in favour of the market. This has led to a 'hybrid' situation where increased institutional autonomy co-exists with significant state regulation: the so-called Janus Head effect. For Amaral and Magalhães, this situation has some utility:

Both strict state control and market co-ordination are incomplete as political regulators – the virtues of one do not solve the problems raised by the other. So, perhaps, hybridism is not an instrument to be disregarded, but instead a dynamic balance to be maintained.[162]

A later analysis by the same authors (2003)[163] observes that, owing to fiscal crisis and loss of legitimacy of the welfare state, the university in Europe has come to be viewed as a 'social organisation' rather than a 'social institution', and managerial values have come increasingly to replace traditional modes of academic governance. In such an environment, although there are some uncertainties about the role of the market in higher education, it seems unavoidable that the market will be increasingly emphasised – at a minimum, as a rhetorical political device. Accordingly, it is imperative that academics make once again the case for higher education, while at the same time having to craft this case anew in order to deflect attacks on the grounds of elitism and irrelevance.

9. Ivar Bleiklie (2002)[164] notes that the autonomy of universities in the European context turns on two questions. The first question is the form of authority that makes the basis of the relationship: and Bleiklie distinguishes two forms of authority which he calls the 'state model' and the 'liberal model' respectively [essentially the state control and state supervision models]. The second question is whether the aims of the university are 'cultural' [by which Bleiklie seems to mean 'educational'], or utilitarian. He argues that the two classical European ideals of institutional autonomy both have clear cultural aims. The continental

model combines state authority with autonomy regarding the content of research and teaching. The Anglo-Saxon model combines public financial responsibility with independent institutions who are trusted to handle their own affairs in the best possible manner. Two more modern ideals are oriented around utility. The socialist model holds that education and research are to be used in the best interest of society, and combines state authority with this utilitarian goal. The market model has a utilitarian goal, but removes the university from state authority.

10. Peter Maassen and Björn Stensaker (2003)[165] have explored the conceptualisation and role of self-regulation in European higher education over the past 20 years. In their assessment, while self-regulation remains notionally popular as an 'ideal' steering strategy based on high levels of trust between actors, everyday political practice sooner or later tends to emphasise control rather than trust. The reasons for this cannot be laid solely at the door of government, given that 'in the evolving self-regulatory system each higher education institution was mainly "regulating its own interests" thereby neglecting the interests of the higher education system as a whole, as well as the general public interest in higher education'[166]. On the other hand, the introduction of new steering instruments, such as bilateral performance contracts, has generally not led to the abandonment of self-regulatory instruments.

11. Li-Chuan Chiang (2004)[167] has examined the effects of funding on university autonomy. He finds that the notion of a linear effect (e.g. the higher the proportion of funding that comes from non-government sources, the higher the degree of autonomy) is ill-founded, as university autonomy involves far more than a financial tie to the state and is politically and contextually conditioned. Greater efforts on the part of universities to diversify their funding bases cannot, on their own, significantly enhance their autonomy. (On a related theme, Martin Snyder (2002)[168] has commented that 'if university autonomy is to be diminished or corrupted, the likely point of entry will be financial'[169] – meaning that the pursuit of external funding may actually constitute a serious risk to autonomy from non-state sources.)

12. Dominic Orr (2005)[170] has examined the interplay between methods of funding allocation and quality assurance as prominent levers of change in contemporary higher education, and as factors for interpreting the role of market forces, or state intervention, in higher education. He argues that, owing to the interdependence between funding and QA, a funding method with a high degree of state control is likely to be matched with a QA method involving a similar degree of state control to provide an adequate co-ordination framework. Conversely, a method of QA based on the market principle only comes to fruition in a system where it is used in conjunction with a method of funding that has a higher degree of market orientation. These ideas are captured in the figure below.

Quality Assurance Regime
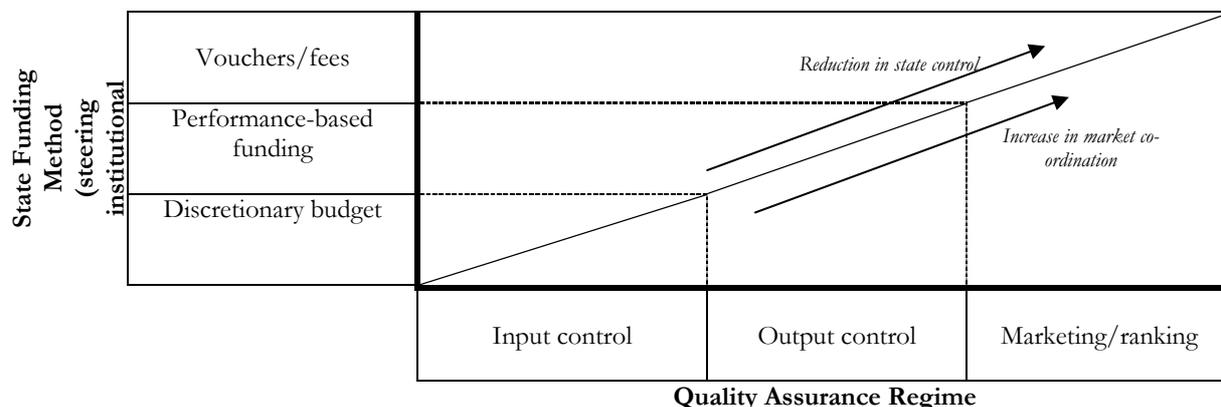
(mapping institutional activity)

13. (2005)[171] were briefly discussed under Section 4.2.2 of this report. The expanded version of these models is provided here for interest.

Autonomy / Conflict	University operations and dynamics are governed by **internal** factors	University operations and dynamics are governed by **external** factors
Actors have **shared** norms and objectives	*The university is a self-governing community of scholars* Constitutive logic: Free enquiry, truth finding, rationality and expertise Criteria of assessment: Scientific quality Reasons for autonomy: Authority to the best qualified Change: Driven by the internal dynamics of science; slow reinterpretation of institutional identity; rapid and radical change only with performance crises	*The university is an instrument for national purposes* Constitutive logic: Administrative: implementing predetermined political objectives Criteria of assessment: Effective and efficient achievement of national purposes Reasons for autonomy: Delegated and based on relative efficiency Change: Political decisions, priorities, designs as a function of elections, coalition formation and breakdowns and changing political leadership
Actors have **conflicting** norms and objectives	*The university is a representative democracy* Constitutive logic: Interest representation, elections, bargaining and majority decisions Criteria of assessment: Who gets what: accommodating internal interests Reasons for autonomy: Mixed (workplace democracy, functional competence, *realpolitik*) Change: Depends on bargaining and conflict resolution, and changes in power, interests and alliances	*The university is a service enterprise embedded in competitive markets* Constitutive logic: Community service; part of a system of market exchange and price systems Criteria of assessment: Meeting community demands; economy, efficiency, flexibility, survival Reasons for autonomy: Responsiveness to 'stakeholders' and external exigencies, survival Change: Competitive selection; rational learning; entrepreneurship; adapting to circumstances and sovereign customers

Public Accountability

14. Bikas Sanyal (1994)[172] argues that an adequate public accountability framework for higher education must include the following elements: consensus on the distribution of roles and functions between state and institutions; effective government support structures for policy implementation and supervision, guiding budgetary allocations, evaluating institutional performance and publishing information for the public; effective strategic planning and financial management at institutional level; and demonstrable management capacity at institutional level, as shown, for example, by ability to provide relevant information and indicators of performance.

15. Delmer Dunn (2003)[173] has analysed public accountability in higher education from the perspective of accountability's place and importance in systems of democratic governance. He notes that the purpose of the concept is to achieve public policy that remains responsive

to public preferences and, as such, is the price citizens extract for conferring substantial administrative discretion and policy responsibility on both elected and appointed public personnel. He finds that, if policy is to be sensitive to democratically-derived preferences, and at the same time informed by necessary expertise, then an active partnership must be forged between higher education faculty and administration, and elected officials.

Higher education officials need to be more willing to join into a fuller collaboration with elected officials in making higher education policy to ensure that the professional tenets that guide their policy (and implementation) choices will be factored into the policy fashioned by […] government […] Politicians who do not fully engage in that partnership are likely to produce policies that in the end do no achieve their desired objectives.[174]

16. Jeroen Huisman and Jan Currie (2004)[175] discuss different kinds of accountability relationships in higher education in Europe and the US, noting that answerability for performance can be structured on hierarchical, legal, professional or political bases. The latter two types are the most typical of contemporary higher education.

The typical functions of public accountability in higher education are, first, to constrain arbitrary power; second, to raise the quality of performance; and third, to regulate explicit and implicit criteria through reporting requirements. However, Huisman and Currie note that stakeholders' calls for more accountability from higher education institutions have not always had a significant impact on the day-to-day practices of academics.

They attribute this to a shift from professional to political accountability in systems of state supervision, which they claim allows universities to satisfy accountability requirements simply by counting *existing* activities or using 'soft' performance measures, rather than initiating new activities or employing more concrete measures. Institutional leaders may choose to do this, either because their management information systems are weak, or because they believe a softer approach is more effective for collegial and collaborative leadership. For their part, governments may be unable to get a sufficient grip on the internal workings of universities because: they lack specialised knowledge; or because the cost of gaining such knowledge is too great; or because accountability policies are not translated into functional institutional mechanisms. An alternative explanation offered by Huisman and Currie is that most attention to accountability in government policy papers is rhetorical: accountability measures are pleaded but not enforced.

ENDNOTES AND REFERENCES

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[12] Ibid.

[13] Ibid.

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[16] The Academic Freedom Committees 1974: viii.

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[20] NCHE 1996: Chapter 7.

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[22] Hall, M, Symes, A, Luescher, TM (May 2002) Governance in South African Higher Education. Pretoria: Council on Higher Education (CHE): Section 2.1; CHE November 2004: Section 10.2.1.1.

[23] CHE November 2004: Section 10.2.1.1.

[24] Ibid.

[25] Ibid.

[26] Constitution 1996: Chapter 2, Section 16(1)(d) and 16(2)(a)-(c).

[27] Constitution 1996: Chapter 2: Section 7(2) and Section 36.

[28] Higher Education Act 1997: Section 28(1); Hall, Symes and Luescher May 2002: Sections 4.2.2 and 6.3.1.

[29] White Paper 1997: Section 1.23.

[30] Higher Education Act 1997: Section 27.

[31] White Paper 1997: Section 1.24.

[32] White Paper 1997: Section 1.25.

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[34] This paragraph references: Higher Education Act 1997: Sections 43-49; Republic of South Africa (1999). Higher Education Amendment Act No 55 of 1999. Government Gazette No 20651, Notice 1399, 19 November 2000. Pretoria: Government Printers: Section 6; Republic of South Africa (2001). Higher Education Amendment Act No 23 of 2001. Government Gazette No 22808, Notice 1104, 02 November 2001. Pretoria: Government Printers: Section 15; Republic of South Africa (2000). Higher Education Amendment Act No 54 of 2000. Government Gazette No 21784, Notice 1196, 22 November 2000. Pretoria: Government Printers: Section 4; and: CHE November 1994: Section 2.2.1.4 and Section 10.2.1.2.

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[44] Ibid: 15.

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[46] Du Toit, A (2000a). 'Critic and Citizen: The Intellectual Transformation and Academic Freedom'. Pretexts: Literary and Cultural Studies 9 (1): 90-104.

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[50] Higgins 2000.

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[52] Ibid: 100.

[53] Also discussed under Chapter 2 of this report.

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[55] Ibid: 108.

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[117] See Du Toit's key question on page 14.

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[120] E.g. University of Ghana, National University of Côte d'Ivoire, University of Zambia, National University of Rwanda, etc.

[121] So named after TM Yesufu, a Nigerian academic who advocated reconceptualisation of the university in post-independence Africa.

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