



COUNCIL ON HIGHER EDUCATION

Regional Forum on

Government Involvement in, and Regulation of, Higher Education, Institutional Autonomy and Academic Freedom (HEIAAF)

Friday 24 March 2006, University of Pretoria Senate Hall

1.	Welcome Prof Chris de Beer (Acting Vice-Chancellor and Principal, University of Pretoria)
1.1	<p>Prof Antony Melck, who chaired the discussion, opened the meeting at 10:00. He introduced Prof de Beer, the Acting Vice-Chancellor and Principal of the University of Pretoria.</p> <p>Prof de Beer offered a welcome to all delegates on behalf of the University of Pretoria. The commitment of all institutions to the mandate of the Council on Higher Education (CHE), namely: to monitor and evaluate policy and assure quality provision in higher education, was reiterated. Government involvement in, and interaction with, higher education is of particular importance, and the hope was expressed that the discussions at this forum would be particularly fruitful.</p>
2.	Introduction by the Chairperson Prof Antony Melck (Advisor to the Vice-Chancellor and Principal, University of Pretoria)
2.1	<p>Prof Melck revisited some aspects of the autonomy of higher education institutions (HEIs), as mentioned in policy and in the National Plan on Higher Education. To address these issues, the Task Team on HEIAAF was established, and the discussion at this forum was intended to feed into the process. The presentations by the speakers would be followed by an open discussion, from which a number of key points would be synthesized. Attendees were invited to raise particular issues so that these could be addressed and, if necessary, noted for future discussion, so as not to hold up the debate.</p> <p>The Task Team was represented at this Forum by Mr Steven Friedman, who would be presenting the terms of reference of the Task Team.</p>
3.	Task Team on HEIAAF: Terms of Reference of the Investigation Mr Steven Friedman (Member of the Task Team)
3.1	<p>The Task Team on HEIAAF was established by the CHE to investigate government involvement in, and regulation of, HEIs. It was important to clarify the terms of reference of the Task Team, in order to allay any misconceptions and confusion that might arise. The exercise should not be seen as a drive to curtail the autonomy of HEIs in any way. The CHE's mission requires it to conduct research not only at the request of the Minister of Education, but also in a proactive manner, as in this instance. The HEIAAF research project was initiated by the CHE to provide insight into the sector at large.</p> <p>A considerable portion of the work done by the Task Team would be in the public domain. The</p>

	<p>Task Team had commissioned five research projects which were in progress and in terms of which no conclusions could be drawn at this stage. At the same time, a process of dialogue and discussion was initiated, which had to date involved the solicitation of submissions from a range of HEIs. The discussion at this forum was one of the ways in which institutions were also being asked to voice their opinions and concerns, and was the first of a series of similar discussions to follow around the country. Interviews would be conducted to clarify details and identify further areas of investigation. Once the process was concluded, the findings of the Task Team would be published for comment, and would be used to inform a report to the Minister.</p> <p>The relationship between HEIs and government in South Africa had for long been a subject of debate and controversy. The CHE's belief that the relationship between government and HEIs was currently an issue of concern had been fully confirmed by the submissions received from most institutions, indicating that there was an urgent need for analysis and debate on this topic.</p> <p>While it might not be possible to reach consensus in the short term, the intention was to arrive at a greater understanding of opposing views, and to engage intellectually with issues in order to arrive at new understandings. It would also be possible to create an improved understanding of government involvement in the affairs of HEIs, and what an appropriate relationship between these parties might be. Intellectual notions of academic freedom, institutional autonomy, and public accountability, in the light of the need for transformation, would also have to be debated.</p> <p>The Task Team had formulated some premises for its work. The process was starting from the premise that government has a role to play in transforming the higher education sector. While it is acknowledged that there should be some state steering in higher education, this intervention should be based on democratic principles, and should not be seen as interference. The Task Team would not only be looking at government's interventions in higher education, but also at the appropriateness of this involvement. A conceptual framework that would be normative, but also qualified in terms of the national and international realities, should be generated.</p> <p>As already mentioned, five research projects had been initiated. These were:</p> <ul style="list-style-type: none"> • Research investigating and evaluating co-operative governance at system level. • A theoretical analysis focusing on interrelationships between the state and the higher education sector. • Research into the practice of academic and intellectual freedom in South African higher education and society. • Research into university autonomy as a social pact between HEIs and other forces in society. • Research into the concept of public accountability in the context of HEIs, and their relationships with society. <p>The hope was expressed that the discussion would help to allay any lingering fears that might exist among HEIs about the brief and purpose of the Task Team.</p>
4.	<p>Keynote Address Dr Adam Habib, Executive Director: Democracy and Governance Programme, Human Sciences Research Council</p>
4.1	<p>Dr Habib indicated that he would be presenting a number of disparate comments with the aim of stimulating discussion. He started his presentation by emphasising that there was hardly a more opportune time to discuss institutional autonomy and academic freedom than the present. There had been several discussions in the media around these issues, indicating that these were matters</p>

of wider concern that had filtered into the public discourse.

It would be useful to clarify who the alleged violators of academic freedom and institutional autonomy were. Prof Jonathan Jansen had identified two such 'perpetrators': the first group included educational technocrats in the Department of Education (DoE) and the CHE. These individuals, at the apex of the management of the higher education system, were making major incursions into the freedom of institutions. The second perpetrator emerged in part from Prof Jansen's discourse, but was also highlighted by a range of academics across the country, namely: the institutional technocrats responsible for the corporatisation of the higher educational institution. These individuals could be found in the management structures of the institution, and were constraining the ability of academics to teach and do research as they see fit. What made this incursion into the territory of the academic more critical was the fact that it came from inside the institution.

Academic freedom and institutional autonomy might be conflated in some instances, and an urgent call to see these aspects as distinct was expressed. There was a growing tendency among academics, during the 1980s and '90s, towards corporatism and a selling out of the research agenda. Research agendas were being increasingly swayed by who was able to pay for what. It needed to be acknowledged that there are various stakeholders involved in this process – from the institutional manager, to the state technocrat, to senior academics.

It was also necessary to compare the local higher education conundrum with the one that our African neighbours had faced in the 1960s and '70s. Colonial HEIs were mostly staffed by expatriates or academics from the settler community, while the newly trained Black academics were alienated by the institutional culture. The environment and curriculum was alien and patronizing, institutions were often seen as bad copies of those existing in the developed world. Lacking power, newly trained African intellectuals turned to the new, post-colonial state for assistance, while the traditional expatriate academics stayed in their institutions and raised the banner of institutional autonomy and academic freedom. The state most often won the battle, but once entrenched in HEIs, would not leave. This resulted in a situation where those who had called for state intervention were left echoing the sentiments of their expatriate academic colleagues. The debate in South Africa today was acquiring the same overtones as that had by our neighbours a number of years ago.

In contemporary South Africa, the Minister of Education was being advised by proponents for the democratisation of education, while the institutions themselves were raising the banner for institutional autonomy and academic freedom. The conduit of the state within institutions was the institutional management, responsible for carrying the logic of the state into the institution's management.

It was deemed necessary by Dr Habib to get out of this binary debate, and to learn from the lessons provided by our colleagues in neighbouring countries. André du Toit had made the distinction between liberal and republican conceptions of academic freedom. The republican formulation stated that academic freedom is a positive right which aims to achieve the goals of society, and is based on social accountability, coupled with social transformation: the one cannot exist without the other.

Farsighted technocrats might agree with this conception of academic freedom linked to transformational goals. There was an assumption that this conceptualisation of academic freedom, supported by a regulatory framework, would automatically play out in practice. Yet looking at the African experience, this had not happened, even though African academics had been clear about

	<p>the notion of freedom linked to certain responsibilities. In South Africa, the solution would have to go beyond empowering the state or institutional technocrat, possibly by looking through the lens of the social activist. How might we construct the relations of power to reform the system in ways that would create a series of empowered stakeholders? In the contestation between stakeholders, checks and balances should emerge that would create the space for academic freedom.</p> <p>Four reforms could/should be instituted (on the basis of a belief by Dr Habib that institutional autonomy was essential <i>for</i> academic freedom, but on its own would not <i>generate</i> academic freedom):</p> <ul style="list-style-type: none"> • A plurality of voices and viewpoints was needed in the higher education sector to allow a true reflection of a variety of ideological voices, and dissidence, emerging from a variety of contexts. • Institutions needed a diversity of income streams. Income is power, and as long as institutions were dependent on the state only, they would not have true institutional autonomy. • Institutional culture needed to be transformed to reward research and intellectual productivity, which would lead to a position of power for those able to produce those desirable outcomes. • Academic entrepreneurship. There had been a tradition of engaging in entrepreneurial activities, and it might be necessary to explore this avenue to benefit the long-term research agenda. This would be possible if a diversity of income streams were explored. <p>Against this background, there were three options open to HEIs:</p> <ul style="list-style-type: none"> • To hope for a revolution against neo-liberalism (unlikely). • To wring one's hands and bemoan the current situation (i.e. critique without reflection on how to improve the situation). • To engage in a process of reform and contestation. As our Constitution allows for this, it seemed to be in this environment that the space for academic freedom might be constructed.
5.	<p>Discussant Prof Rassie Malherbe, Professor of Public Law, University of Johannesburg</p>
5.1	<p>Prof Malherbe acknowledged that a certain amount of subjectivity applied when looking at institutional autonomy and academic freedom. He noted that the South African Constitution makes provision for academic freedom as a basic right, which is fairly advanced worldwide. However, questions needed to be asked as to what this means, and how it translates into practice.</p> <p>It was internationally accepted that academic freedom is about teaching and research: this formulation by TB Davie in the 1950s - and accepted into law in America (<i>Sweezy vs New Hampshire</i>, 1957) - had been coined in reaction to pressure from the apartheid state. It focused on who may teach, what may be taught and how, and who may enrol to be taught. While it would always be difficult to practise academic freedom without institutional autonomy, there could be times when academic freedom would come into conflict with autonomy. It was therefore important, within institutions, to have vibrant bodies like the Senate to keep management on its toes.</p> <p>Institutional autonomy could be defined as follows: the self-governing power of the institution to decide on academic issues, involving, for example, staff and academic structures, research and curriculum. The principle of institutional autonomy involves self-regulation in terms of a number of governance issues. It had to be noted, however, that academic freedom, which includes institutional autonomy, is not an absolute right. Given that this right exists not for itself, but for the sake of society, it was possible to limit it for bigger public purposes, if such limitation could be justified and considered reasonable in an open and democratic society. It would be wise to adopt a</p>

	<p>mixture of republican and liberal views of academic freedom, given that our Constitution stands for individual freedom as well as a positive assertion of academic freedom.</p> <p>In Prof Malherbe's view, a strong centralisation of power in the South African higher education sector had occurred over the last eight years. The Higher Education Act had become the vehicle for a single, state-controlled machine, and this had led to the need for this discussion. Through mergers, the setting of targets, and the standardisation of curricula and qualifications, higher education had been moulded to become a tool for the state to produce professionals for the world of work. This ideological and democratic intervention had transformed an educational process aimed at producing excellence into a system producing graduates on a conveyor belt.</p> <p>It seemed that one of the intentions of state intervention in HEIs was to enhance public accountability. Accountability was a political term, and implied that institutions are answerable to their own management structures, as well as to the public and the state. While it was beyond question that universities should be held accountable to the state and be able to demonstrate how national policy goals are being met, the implementation of these mechanisms might require revision. Various Acts were in existence to govern HEIs, as were various mechanisms for public scrutiny. Accountability was channelled through the DoE and the Minister of Education, which pointed to a centralised executive control, not technically the same as public accountability. Accountability could in fact be weakened by transferring it to another functionary, in turn responsible to a higher power, as this could impede the scrutiny of organs of state. Prof Malherbe proposed that universities should be directly accountable to Parliament, which would enable them to report directly on their performance, and which would mean that these reports would be available for public perusal.</p> <p>Prof Malherbe reiterated that universities do not exist for their own sake: universities exist for the benefit of society, and academic freedom and institutional autonomy are tools in place to better serve this constituency. For the sake of a democratic society, academic freedom should not be sacrificed for short-term political goals: universities should be allowed to promote all forms of knowledge. The state and universities should respect their respective roles in a democratic society, and should not be unilateral and restrictive. The state should not erode basic principles of academic freedom through its policies, as freedom is essential, but also very fragile. Listening to the debates around this issue, it was clear that there is a tension between seeing society as a single, homogeneous entity, or as a pluralistic organism. Regardless of how it was seen, universities had at all times to serve society as best they can.</p>
6.	Open Discussion (Questions to the Speakers)
6.1	<p>Mr Omano Edigheji, Centre for Policy Studies</p> <p>In this participant's view, Dr Habib had missed out some of the perpetrators. The market was a major perpetrator in eroding academic freedom and autonomy. Research in the sciences, and even in the social sciences, was being driven by market needs. Students were being produced with qualifications as if they were entry tickets to the world of work. Yet we needed to ask the question: how can we meet the knowledge needs of society as a whole, and not only those of the market?</p> <p>Post-colonial African experience of the democratisation of higher education showed that the transformation of higher education should be parallel to the transformation of the state and of society as a whole. It was problematic that professional actors, like non-governmental organisations, had replaced social movements in the transformation of society – transformation</p>

	should start from the lower levels.
6.2	<p>Mr Alpheus Maphosa, Vaal University of Technology</p> <p>This participant contended that universities are organs of state. Universities have a direct impact on all national imperatives, from social to business imperatives. Although many challenges were being confronted in South Africa, debates often focused on the intellectual, rather than on national goals. We should not cry about autonomy while large sections of our citizenry remain illiterate and unskilled. The intellectual debate should take account of the reality of our society and research should directly change the lives of our people.</p>
6.3	<p>Prof Peter Omara-Ojungu, University of Venda</p> <p>This participant agreed with the notion that a university cannot exist in isolation. He noted that while some of the state's regulations were supported by people in the higher education sector, some were seen as infringing on autonomy. The notion of corporatisation needed to be interrogated: the entrepreneurial focus of institutions was often confused with a justifiable focus on value for money. Academics' concern with the creation of knowledge should not take a backseat to the notion of value for money. Institutions should be effective, efficient and accountable.</p> <p>The participant expressed appreciation to the CHE for this process of debate. He believed that this debate would help to formulate a clear vision, mission and philosophy of higher education, as formulated by government.</p>
6.4	<p>Dr Robert Kriger, National Research Foundation</p> <p>This participant asked if the HEIAAF process were not a diversionary tactic by certain players to shift focus away from the centrality of the Constitution, and the unfolding constitutional process, in our newly liberated country. It was of concern that that the public, although conscious of the Constitution, were unskilled at the political underpinnings necessary to engage in depth with its provisions. It was critical to unfold the Constitution to serve the needs of the people.</p>
6.5	<p>Mr Emmanuel White, Tshwane University of Technology</p> <p>This participant emphasised that delegates had been invited to share views that would affect their work and thinking about higher education: constructive debate would reinforce practice. He believed that higher education should have appropriate mechanisms to debate important issues and policies, and to be accountable and responsible to the public. However, this did not remove the influence of the state and other stakeholders. Delegates needed to understand the paradigm shift in the political and economic environment of this country, and internationally, which required higher education to discharge its duties for the betterment of all stakeholders.</p>
6.6	<p>Mr Steven Friedman – Response to questions and comments</p> <p>The Task Team was not bound by the framework of government thinking. It would analyse the influence of all stakeholders and engage with all issues arising, including constitutional ones. The Task Team was not pursuing any given agenda.</p>

6.7	<p>Dr Adam Habib – Response to questions and comments</p> <p>The participant who raised the issue of the market as perpetrator was right – although this influence was not yet as dramatic here as in other parts of the world. In the US, academics were increasingly contending with private-sector firms steering their research, and in some instances were prevented from publishing their research because this did not serve the needs of their funders. It was important to engage with this issue at institutional level: contracts could conceivably allow for a large degree of autonomy as far as research was concerned. Given that the state did not fund research fully, alternative income streams were necessary and it was therefore important to think how to construct autonomy given these constraints.</p> <p>In Dr Habib’s opinion, government was well aware of the importance and the uses of research, given, for example, a clear correlation between low research output and low economic productivity.</p> <p>With regard to whether the HEIAAF process was a diversionary tactic, Dr Habib queried how the Constitution was to be unfolded? Although the South African Constitution was widely held to be the world’s most advanced in certain aspects, our economy still lagged behind that of societies with less advanced Constitutions. The structure of power should allow for the translation of regulatory frameworks into reality.</p>
6.8	<p>Prof Rassie Malherbe – Response to questions and comments</p> <p>Prof Malherbe agreed with the point made about the influence of the market on the world of academia. It would be dangerous for academics to be in the pockets of the market. It was an acknowledged fact that research into very important areas often did not occur, because the research would not suit the intended outcomes of the funders.</p> <p>Universities had to be responsive through their research to society’s problems, but keeping within the rules of the game. It should also be acknowledged that there is the possibility for indirectly responsive research. Had Einstein asked for funding for the study of relativity, he probably would have been turned down, as this would not have been deemed directly relevant.</p> <p>On the point of whether universities were organs of state, Prof Malherbe commented that universities serve the public, and do so in terms of legislation. This did not, however, mean that universities had no right to academic freedom and institutional autonomy, nor that they would cease to be organs of state if more independent financially from the state. HEIs would be able adequately to meet all needs through a proper partnership between the state, universities and the market.</p>
6.9	<p>Mr Emmanuel White, Tshwane University of Technology</p> <p>Looking at the legal provisions within which HEIs were operating, there was clearly an expectation that all institutions should operate at an equitable level. The state, as referee, should be continuously encouraged to stimulate debate on issues of transformation, to ensure this became a reality.</p>
7.	<p>Structured Discussion</p> <p>The Chairperson suggested a framework of questions for the structured discussion and points were raised under these headings.</p>

7.1	<p>What key conceptions of institutional autonomy, academic freedom and public accountability existed and what were the relationships between them?</p> <p>Mr Omano Edigheji, Centre for Policy Studies: The focus should not be on institutional autonomy alone, but on the autonomy of the sector as a whole.</p> <p>Mr Alpheus Maphosa, Vaal University of Technology: There was no question regarding the right to academic freedom; the issue that was being debated was the degree of autonomy of the institutions. It would be useful to relate in-principle issues about the scope of institutional management and administration, and the ambit of regulation and institutional autonomy, to the corporate and governance structures at institutions, and their accountability. In this regard, the roles of Senate, Council and student bodies should be discussed in public – in the past, this had not happened unless a scandal was uncovered. The participant argued that it would be important to look at unfolding case studies at institutions, and to relate those to issues of institutional accountability.</p> <p>Mr Nic Coetzee, University of South Africa: Councils and the management of institutions often interjected themselves between the institution and the Ministry. The Ministry might then think that it had consulted the institution, which was a travesty. He supported the notion of institutions reporting directly to Parliament as an innovation that could create a space for increased institutional autonomy, and could foster and nurture academic freedom. Parliament could eventually act as a kind of referee for accountability as a concept incorporating a range of stakeholders, instead of only the state. Perhaps all universities could adopt a charter that would make them responsible for nurturing academic freedom.</p> <p>Prof Antony Melck, University of Pretoria: The point was that there needed to be some interrogation of the power-relationships between Council, Senate and management, and how these affect institutional autonomy and academic freedom. In addition, stakeholders other than the DoE and the CHE (e.g. the Department of Labour) needed to be kept in mind.</p> <p>Dr 'Maboreng Maharasoa, Central University of Technology (Commissioned researcher): This research had factored internal power into its thinking about relationships within institutions, noting, for example, certain problems of access to research respondents (e.g. the Higher Education Act had complicated matters by making the Vice-Chancellor the Chairperson of Senate). Delegates present were asked to assist researchers to gain access to the right people.</p> <p>It was important to consider whether institutions themselves had stimulated the current climate of over-regulation.</p> <p>Mr Omano Edigheji, Centre for Policy Studies: It would be important to debate the possibility of instituting a higher education sectoral charter for academic freedom, as suggested by another participant. This could be a pact between the different sectoral stakeholders, and would provide a much-needed holistic framework.</p>
7.2	<p>What would be the most appropriate level and character of government involvement in terms of institutional autonomy and academic freedom?</p> <p>Prof Rassie Malherbe: The points of departure for the exercise of defining appropriate modes of government involvement</p>

	<p>would need to be clearly spelt out. The constitutional guarantee of academic freedom should be one point of departure. Being bound by the Bill of Rights, universities were obliged to ensure that everybody enjoyed those rights. The notion of partnership should also be strongly recommended. Universities should be accountable.</p> <p>Dr Robert Kriger, National Research Foundation: The circumstances in which he had made his statement about the HEIAAF process being a diversionary tactic had to be understood. While the Constitution guaranteed certain rights, the state could also quite easily change the Constitution to suit its own needs. Only by virtue of the fact that we have a President with a conscience was the Constitution still intact. Accordingly, the importance of governance structures and stakeholder involvement in them should not be discounted. Likewise, the terms of reference of the Task Team, as well as the specific research proposals, should be disseminated widely for comment and input: this would enable a wider opening up of the process to incorporate a variety of views.</p> <p>Prof Peter Omara-Ojungu, University of Venda: The participant asked if it was possible to identify limitations on the Bill of Rights.</p> <p>Prof Rassie Malherbe: The Bill of Rights has limitations, but these are contextual. Prof Malherbe had written extensively on what he perceived to be infringements of academic freedom, and these perspectives had been submitted to the Task Team.</p>
8.	Closure by the Chairperson
8.1	<p>The Chairperson invited Prof Saleem Badat, Chief Executive Officer of the CHE, to make brief closing comments.</p> <p>Prof Badat thanked all the participants.</p> <p>He emphasised that the CHE's mandate involves advice to the Minister of Education, and that the current process was initiated as part of the CHE's intention proactively to advise the Minister. After a number of months, the Task Team had determined that it was only at the start of the process. There were various opinions and issues that had to be kept in mind, and many practical considerations that would require in-depth research and debate. This regional forum engagement was but one moment in a much longer process, and future opportunities for engagement would be available to all stakeholders. The final research report would be produced in the name of the Task Team.</p> <p>Participants were asked to keep an eye on the CHE website, where draft documents would be posted for comment. The Task Team would take all comments, from whatever source, into account. The Task Team had noted that as much as institutional leadership had been asked to communicate the terms of reference of the Task Team to their constituents, this had not always occurred. To this end, the Task Team would engage directly with various institutional constituents. The submissions from institutions would also be interrogated to determine whether they reflected all stakeholders' points of view.</p> <p>It had always been the CHE's practice to publish an independent research report, whose only fundamental criterion for publication was quality. In addition, the CHE might generate its own Policy Advice Report to the Minister of Education, which would be formulated using input from the</p>

process as well as the Task Team's report. While this Advice Report was always confidential, the Minister might decide to publish the contents of the Report, should she deem this necessary and/or desirable.

In addition to the five research projects mentioned earlier, different research projects might be commissioned in future and published to stimulate further debate. All contributions were welcome, and could be submitted through the CHE website.

Of special concern to the CHE was the silence of the academic voice around fundamental policy issues, and this aspect would be addressed in the investigation. Academics present at the forum were asked to alert their colleagues to the need to submit academic perspectives.

Prof Melck thanked Prof Badat for the strong leadership that he had provided to the higher education sector over the past few years, and extended good wishes for the future to him, now that he was departing the CHE.

Delegates were thanked for their participation and the Chairperson closed the meeting at 13h00.