

Background paper for a presentation to the Fees Commission, 17 October 2016

**Institutional Autonomy and Cooperative Governance:
An Academic Freedom Perspective on the Underlying Social Compact
Between Universities and the State**

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Preliminaries:

* This background paper has been prepared in response to a request from the Fees Commission for a presentation introducing “a discussion on the notion of institutional autonomy and how this relates to the functioning of various institutions in the context of public accountability and the setting of fees”.

* The paper has been adapted from a previous presentation to HESA in 2014.

* As a background paper it deals with general historical, comparative and conceptual issues relevant to the topic. While the account certainly has implications for the current issues around the setting of fees these are not spelled out in more specific terms (also because that is not my own particular area of expertise). These implications may best be raised during general discussion following the initial presentation.

* The paper and presentation deals with relevant issues from an academic freedom perspective with a focus on institutional autonomy and public accountability. It does *not* have a particular focus on issues of (equal) student access though this is also a relevant concern for academic freedom in terms of the basic principle of the ‘freedom of learning’ (*Lernfreiheit*). That would require a separate paper and presentation but could also be raised in discussion.

1. Historical contextualisation: The foundational governance assumptions of post-apartheid Higher Education:

A discussion of the significance and relevance of the institutional autonomy of higher education institutions in relation to their public accountability may best begin by recalling the authoritarian vision of the Apartheid state. In 1974 the report of the Van Wyk de Vries commission declared that “there is no room in any country for more than one conception of the function of the university” (sect. 4.14 & 5.5). The Report decisively rejected any notion of academic freedom or institutional autonomy:

“In the exercise of its academic freedoms the community of ‘scholars’ cannot claim the right to decide what the interests of the community, society or the State should be, nor can it ignore the realities of those interests. It is unrealistic and fallacious to argue that such a community of ‘scholars’ has a right or a freedom derived from an international tradition or ideal or for that matter its own tradition; it is equally erroneous to argue that a community of ‘scholars’ (or a university) is at liberty to place itself beyond or above its community,

society or State, there to determine its own character and nature, its own ethical and moral norms, and to operate as an *imperium in imperio*" (Van Wyk de Vries Commission, 1974, sect. 6.22)

This position provided the implicit target for the National Commission on Higher Education (NCHE) process that set out to reconfigure the higher education system of the new post-apartheid South Africa in the mid-1990s. The NCHE process sought to bring about a comprehensive restructuring of the higher education system within a single integrated framework based on democratic principles in order to overcome the deeply entrenched apartheid legacies of racial division and inequality. Academic freedom was explicitly recognized as a basic right in the new Constitution. The newly integrated system of higher education would not be centrally directed by the state through the Ministry of National Education. Instead, the state would be involved in a supervisory or 'steering' role only (as opposed to a role of 'control' or 'interference') and the new system would be characterised by increased cooperation and partnerships, with defined roles for intermediary bodies between the state and the higher education institutions as well as the development of internal constituency partnerships and linkages between these institutions and civil society. Compared to what had gone before, the NCHE process represented a deliberate break with apartheid ideology, not only in doing away with racial separation and divisions but also in setting out to avoid a single state-imposed and -controlled conception of the university.

It is of considerable relevance that the restructuring of higher education in the new democratic South Africa was not conceived as just another national policy initiative of the new government to be implemented by its administrative apparatus. Instead it was explicitly launched within a constitutionally-based framework of '*co-operative governance*' which was hailed as providing a participatory democratic alternative to more customary modes of national policy making and implementation. The new 1996 Constitution declared that "all organs of state (whether these be government departments, or any institution exercising a public power or performing a public function) must cooperate with each other in mutual trust and good faith". Rather than state departments serving as sovereign powers to whose centralised policy and administration other institutions are to be subordinated, the 1997 White Paper accordingly proposed

"a system of cooperative governance [which] would see the state playing a steering and coordinating role, while autonomous HEIs retained authority over their resources but acquired obligations to be accountable for their use".

The notion of co-operative governance thus allowed room for the institutional autonomy of universities as independent institutions within a higher education system overseen by the DoE. This assumed that where different interests and objectives existed between the state and independent higher education institutions these would be negotiated in a co-operative manner and not be unilaterally or coercively resolved by state intervention. The notion of '*co-operative governance*' thus proposed an interactive process involving a range of independent institutions, agencies and stakeholders, of which the state would be only a first among equals, in a 'dialogical' approach to concerted change. On this view, '*co-operative governance*' may best be interpreted in terms of a possible social compact for autonomous involvement in transformation.

2. Institutional autonomy as principle?

Contemporary discussions of state interventions in the sphere of higher education still tend to be much concerned with actual or perceived threats to the *institutional autonomy* of universities. In the different context of post-apartheid South Africa this echoes the 'liberal' response to the Apartheid state's assault on academic freedom. At the time the 'liberal' response of the 'Open Universities' to Dr Verwoerd's threat to impose racial exclusion on South African universities prioritised institutional autonomy as a foundational principle of higher education governance. The celebrated (or notorious) T.B.Davie formulation of the "four essential freedoms" ("our freedom from external interference in (a) *who* shall teach, (b) *what* we teach, (c) *how* we teach, and (d) *whom* we teach") effectively amounted to an assertion of the primacy of institutional autonomy. As such it came to serve as an anti-apartheid banner of academic freedom. In some ways it is not obvious why this should be so. At the time the "Open Universities" declaration was issued on behalf of the 'liberal' universities only, and these did not even include English-language institutions such as Rhodes University or the University of Natal but was restricted to UCT and Wits. Moreover, as a conceptualization of academic freedom it was inadequate and peculiarly limited: despite the elegance of the "four essential freedoms" these primarily amounted to an assertion of institutional autonomy against possible threats of interference by the state. In effect the T.B Davie formulation of academic freedom expressed neither the classic principles of scholarly freedom (*Lehrfreiheit*) nor that of unrestricted student access to higher education (*Lernfreiheit*). Its primary concern was to assert the prerogative of the university itself -- and not of the state or other external agencies -- to decide *who* shall teach, *what* should be taught, *how* it would be taught, and *who* would be taught. This left open the basic question of just who represented the university (the executive and Council? or the academic professoriate through the Senate and in Departments?) in deciding such matters. It also evaded the whole issue of the university's accountability to any instance but itself. In circumstances where the manifest threat was posed by the apartheid state's determination to interfere in the universities this assertion of institutional autonomy served as a necessary and eloquent defense of academic freedom. But in post-apartheid South Africa it became possible to develop a more appropriate and nuanced notion of higher education governance in which institutional autonomy could be taken up as one component along with others within a shared framework of 'cooperative governance'. In this historical perspective it should be clear that a one-sided invocation of 'institutional autonomy' as a foundational principle of higher education governance smacks of an unfortunate relapse into apartheid-era dichotomies.

More generally, in comparative academic freedom perspective, this single-minded focus on institutional autonomy also reflects the limiting outlook of our colonial heritage. The institutional autonomy of universities is a notable feature of academic culture specifically in the Anglo-Saxon world, so much so that it even tends to be conflated with academic freedom itself. But this was not true of the continental-European tradition where academic freedom does not depend on the institutional autonomy of universities. Consider the following account of how state functionaries long served as guarantors of academic freedom in the higher education systems of some major European higher education systems:

"[On the Continent] in terms of administrative control, the ties between Nation and university took a very specific form of a descending hierarchy from Ministry to university in the person of a permanent civil servant delegated to exercise an auditing function within the

individual establishment. His formal responsibilities were – and in many cases still are today – to act in the government’s name, to verify expenditure and to ensure that both procedures and structure within the university were in keeping with the conditions set out in current legislation. The German *Kanzler*, the French *Secrétaire Général*, the University Director in Scandinavian lands, or the *Regeringscommisaris* in Belgium incarnated the direct presence of central administration within the individual university, the very personification of public accountability.” (Neave 2001: 29)

From an Anglo-Saxon perspective it is almost impossible to see how such a direct presence of state functionaries within the university can be anything but interference with its internal affairs and institutional autonomy, or how this could be compatible with academic freedom in any serious sense. The fact that these European universities nevertheless are marked by longstanding practices of scholarly freedom and even academic rule (for example in the notable form of the German and French professorial chair system) thus must appear inexplicable.

On the other hand, the fact that in the Anglo-Saxon tradition itself the historic social compact underpinning the relations of universities with state and society has in recent decades been challenged, and that in important respects the former trust and consensus has broken down, must appear as nothing less than a crisis for academic freedom itself. Consider the following account of developments in Britain during the closing decades of the 20th century:

“[The] former relationship of trust between the universities and the government has now ended ... It would be no exaggeration to say that an outright hostility existed between British universities and the government, especially under the Conservatives. Older concepts of institutional autonomy have become subordinate to arguments about accountability and the right of the government to determine policy when substantial government expenditure is involved.” (Pritchard 1998: 103)

What the comparison with the different European academic culture shows, at the very least, is that institutional autonomy in the university’s external relations is not a necessary condition for scholarly freedom and academic self-governance within the university.

However, care should be taken in drawing ready-made ‘lessons’ regarding the significance of institutional autonomy from such comparisons. The divergent Anglo-Saxon and European traditions of higher education governance should probably be considered as holistic ‘package deals’ whose constituent elements cannot be freely interchanged. In other words, it could be the case that precisely because institutional autonomy had traditionally been closely tied to internal academic rule and scholarly freedom in British universities, in ways which were not the case in the European tradition, that a challenge to their institutional freedom would therefore also be much more consequential for the internal practices of academic freedom in these universities. Presumably European universities had to develop alternate mechanisms and procedures to safeguard their internal academic freedom which British universities, given their institutional autonomy, did not need, leaving the latter more vulnerable and exposed when their institutional autonomy came under threat. The ways in which these comparative observations might apply in the South African context will be considered below.

3. Constitutive dimensions of academic freedom: scholarly freedom / academic self-governance / institutional autonomy:

The significance as well as limitations of institutional autonomy needs to be understood in relation to the general notion of academic freedom. Academic freedom is a complex ideal, and the relation of its various constitutive elements and composite parts to autonomy and accountability is neither obvious nor straightforward. Though institutions of higher education have existed at various times and in different places in which academic freedom was severely circumscribed, academic freedom is nothing less than a constitutive principle for the modern research university. The seminal formulations of these constitutive principles of academic freedom for the modern research university were those of *Lehrfreiheit* (freedom of teaching and inquiry) and *Lernfreiheit* (freedom of learning) elaborated in 19th-century Germany following the Humboldtian reforms. Significantly these articulations of the constitutive principles of academic freedom did not emerge in the context of a liberal society or a democratic political culture but in the hierarchical and authoritarian setting of 19th-century Prussia where universities did not enjoy institutional autonomy but were institutions of state, and professors were appointed by the minister as part of the civil service. When these German ideals of *Lehrfreiheit* and *Lernfreiheit* were taken up and transplanted to the United States at the end of the 19th century as inspiration for developing the American research university, they underwent significant modifications and elaborations. These came to be codified in the seminal 1940 AAUP / AAC Statement of Principles on Academic Freedom and Tenure serving as a model especially within the Anglo-Saxon world, though with significant variations. Unlike universities in continental Europe, British universities have historically enjoyed a substantial measure of self-government or institutional autonomy from the state, and in consequence academic freedom tended to become conflated with institutional autonomy. The dangers of narrowing academic freedom too much to the issue of institutional autonomy were starkly revealed from the 1980s when the Thatcher government in Britain made a point of challenging just these assumptions. Alarming as the Thatcherite assaults on the conventional institutional prerogatives of British universities certainly were, they did not *ipso facto* bring about the demise of academic freedom. As shown by the different continental European tradition – where universities typically function as part of the state apparatus with little or no institutional autonomy in the Anglo-American sense – institutional autonomy is not a necessary condition for academic freedom in the university. Indeed, in the continental European tradition tenured appointment as part of the civil service by the minister is taken to protect the academic freedom of professors from interference by university administrations as well as by outside forces, while in some cases students and faculty have protested government proposals to grant universities more institutional autonomy since that was perceived as holding threats to their academic freedom! In the South African context, too, University Statutes formerly used to provide for the possibility of appeal to the Minister, a potential protection against abuse of the University's institutional autonomy directed against its own academic employees. Still, by and large the *institutional autonomy* of the university tend to be regarded and valued as the ultimate protection of academic freedom even if, strictly speaking, it is just one component of the more complex ideal.

The complex notion of academic freedom involves the three distinct domains of scholarly freedom, academic self-governance (within the university) and the institutional autonomy of the university (in its external relations to state and society). Let us briefly consider each in turn:

1) *Scholarly freedom* is a collective and productive practice of research and publishing functioning by virtue of self-imposed disciplinary constraints on the scholarly enterprise. Its primary location is in the context of the various scholarly disciplines, collectively organised activities of research and inquiry depending on the co-operation and constraints of scholarly peers in a particular discipline. Scholarly disciplines are self-defining 'communities of the competent'. Scholarly freedom thus crucially depends on the assertion of autonomy by a distinctive disciplinary 'in-group' and rules out any inclusive or democratic notion of freedom of opinion in matters of disciplinary knowledge. Such autonomous scholarly and disciplinary communities may be linked to the university but do not themselves necessarily coincide with it. The university is not the natural or exclusive home of the disciplinary community. Even ancient universities like Oxford or Cambridge long operated mainly as (often quite moribund) teaching colleges unconnected to ongoing scientific research and scholarship. The seminal breakthrough of the 19th-century German research universities consisted precisely in establishing a vital link between research-based scholarship and teaching at the core of the university. Even so, the scholarly disciplines were not confined to the universities and elaborated their own concurrent and overlapping professional domains.

2) *Academic self-governance* refers to the various internal governance structures developed over time in modern universities -- the professorial chair, the (collegial) department, academic faculty boards, the academic Senate -- so as to ensure that in the university's academic affairs academics themselves shall rule. As institutions universities, of course, are not confined to academic affairs only: they have property interests, require financial administration and specialised bureaucracies of various kinds, they interact with a range of stakeholders. Academic self-governance does not require that academics themselves should be in charge of all these non-academic aspects of the institution; it customarily meant, though, that academic affairs should be recognised as the 'core business' of the university and that the overall leadership of the institution (the President / Rector / Principal / Vice-Chancellor) be in the hands of (former) academics rather than professional managers and that Senate rather than Council retain the final say in academic affairs. In that sense the collegial tradition of 'academic rule' has lost much of its former hegemony; in contemporary universities the practice of 'academic self-governance' requires the legitimacy of an internal pact within the university community with such other key constituencies as students, administrative staff, management, institutional fora and alumni.

3) The *institutional autonomy* of the university refers to the extent to which the university in its various external interactions -- with the state, local communities or wider society, in relation to individual or corporate donors, etc. -- functions as an autonomous corporation with recognised powers of self-government secured from interference by external agencies. In the Anglo-Saxon tradition, where key universities were founded as independent corporations by royal charter, institutional autonomy is often assumed as an indispensable condition of academic freedom. In the continental European tradition, though, universities typically function as part of the state apparatus: professors are appointed by the minister and as civil servants, in Germany final examinations taken by future teachers and lawyers are *Staatsexamen*, i.e. state rather than university examinations, and in France universities offer national diplomas not university-designated degrees. In South Africa, too, universities historically were statutory creations.

Ideally these three distinct components of academic freedom can and should complement and mutually reinforce each other. But in practice they do not always go together and in some ways may even come into conflict with each other. In such cases the threats to academic freedom are not only external, but may also be very much internal to the university itself. While scholarly freedom does not necessarily require the institutional context of the university, and historically had other important roots, the modern university has developed as the workplace for the vast majority of academics and scholars. Even if they owe their primary loyalty and professional identity to the specialised disciplinary associations which together constitute the national and international communities of scholars, these cannot provide them with academic jobs, tenured employment and adequate salaries. In practice academics spend the major part of their working lives, including their scholarly research, writing and teaching in the employ of universities. At the same time modern universities are by no means scholarly enterprises only, but highly complex institutions with diverse interests, functions, stakeholder constituencies and governance structures.

In the South African context, as in the rest of the Anglo-Saxon world, the *institutional autonomy* of the university has long tended to be regarded and valued as the ultimate protection of academic freedom, the capstone of *scholarly freedom* and *academic rule* within the university. On closer examination, though, the relation of institutional autonomy (in the external context of the university) to scholarly freedom and academic rule (in the internal context of university governance) proves to be much more complex: while institutional autonomy might provide an effective bulwark for protecting academic freedom against external threats it may also develop into a powerful internal threat against academic freedom itself. From an academic freedom perspective the crucial distinction is that between *substantive* institutional autonomy and *functional* institutional autonomy only. While *substantive* institutional autonomy of the university involves internal scholarly freedom and academic self-governance, *functional* institutional autonomy does not necessarily require internal scholarly freedom and academic self-governance. In a sense the most telling evidence for the customary practice of academic self-governance has come when the former consensual arrangements of 'academic rule' began to be challenged in various ways, or were in danger of breaking down. Thus the recent protests and outrage at the changes wrought by the 'managerial revolution' in the internal governance structures of the university (e.g. by marginalising Senate or downgrading departments) provide retrospective evidence for the existence of an implicit compact that may not have been consciously noted while it still prevailed.

4. *The South African trajectory: the state, public HE institutions and 'institutional autonomy':*

The South African higher education system broadly derives from the Anglo-Saxon tradition, but from the outset there were significant differences in South African institutional arrangements. All South African universities are statutory creations, their constitutions consisting not of royal charters but of Acts of the South African Parliament which do not confer the wide implied powers that accompany general corporate status, but only those powers explicitly conferred. From the outset Universities were legally required to submit annual budgets to government for approval. Members of academic staff could appeal against dismissal by University management and Council to the minister. And universities were legally obliged to seek state approval before establishing new courses, departments, or faculties. There is thus a long tradition of legislative intervention and of legal dependence upon the state. (Moodie 1994: 2)

If all these historical features of South African universities aligned them with the state in ways not fundamentally unlike that of continental European universities as part of the state apparatus, then this was even more true of the apartheid universities founded from the 1960s. Given all this, the strong concern of especially the liberal universities in South Africa with regard to their institutional autonomy, as if they shared the same context of state-university relations as those in the British tradition, appears somewhat anomalous. Historically the liberal defence of the university's institutional autonomy against the (apartheid) state amounted to a normative ideal but also to an ideological misrepresentation of the basic state of affairs. Significantly, the conflict between the liberal or 'open universities' and the apartheid state did not translate into any serious changes in their funding by the state; these universities continued to be financed largely from public funds and according to the same formulas which applied to the universities generally.

From the side of the South African state, its relations to the universities were historically characterised by a remarkable degree of respect for their *de facto* autonomy. Even if constitutionally the universities did not qualify for institutional autonomy, the state tended to deal with them as if they did. Thus state subsidies from 1922 took the form of block grants while the Adamson committee in 1933 proposed the consolidation of a stable and predictable system of formula-based funding. The new funding formula introduced by the Holloway Commission in 1951 continued the practice of block grants leaving considerable discretion for the universities, while the 1955 *Universities Act* gave statutory recognition to the Committee of University Principals (CUP) and established the University Advisory Committee (UAC) loosely modelled on the British University Grants Committee. In effect this approximated the British pattern of state-university relations during the halcyon era of respect for university autonomy to an extent which belied the basic legal and practical dependence of South African universities on the state. Arguably the South African state fostered an elite consensus allowing a measure of institutional autonomy to (white) universities disproportionate to their constitutional position or social clout. This does not detract from the serious violations of academic freedom during the apartheid era, including the banning, detention and exile of leading academics involved in political opposition as well as censorship, prosecution of student leaders and security police incursions on campus. As far as higher education and the universities were concerned, the apartheid state's record actually was more ambivalent than is usually recognised, and included a certain recognition of academic freedom and respect for the university's institutional autonomy. Moodie notes that the SAPSE formula for state funding introduced in 1985 was both sophisticated and flexible, with both the data and the calculations matters of public knowledge so that universities knew what their 'entitlements' were. Even more important the state subsidies, though reduced, continued to be paid in the form of block grants, allowing universities some measure of discretion in determining their own spending priorities. Compared to the position of British universities by that time, Moodie concludes that "when it comes to the spending of government money South African universities are much freer than British ones" (1994: 26).

Taken together, then, the historical legacy of the institutional relations between the universities and the state in South Africa is decidedly ambivalent. On the one hand the grounds for the university's claim to institutional autonomy are less secure than appears from the conventional rhetoric of the liberal universities; on the other hand, the state has in practice been more respectful of the

universities' autonomy, especially in terms of the basic funding arrangements, than has commonly been recognised in South African debates.

Broadly speaking, the internal governance structures in the South African university system derives from the Anglo-Saxon tradition rather than the continental-European or American academic cultures. The institutional structure of especially the older South African universities broadly follows the British model, in some cases more specifically the Scottish version, with similar functions for the Vice-Chancellor, academic Senate and University Council, faculty boards and academic departments. South African universities never knew the full German institution of the professorial chair, except in the attenuated guise of permanent professorial heads of departments, nor did they develop a strong and professionalised system of academic tenure on the American model. Some of the institutional divergences and peculiarities of South African academic culture can be directly attributed to the heritage of the racially divided higher education system which developed under apartheid. Thus in the older white universities we find traditions of collegialism and academic rule. As against this the apartheid universities originally designed to serve the various 'bantustans' and ethnic groups were burdened by the legacy of a distinctive bureaucratic academic culture. Another consequence of apartheid (and to some extent of the academic boycott as part of world-wide anti-apartheid protests) was the intellectual isolation in which it cast South African higher education generally so that, *inter alia*, "the shift towards academic managerialism [began] in South Africa a decade later than the developed world" (Webster & Mosoetsa 2002). By the 1990s, though, the 'managerial revolution' was under way within South African universities as well, albeit much more marked in some instances than others, along with the internal transformation of the function and significance of institutional autonomy itself. In the African context this was paralleled by the impact of the new and radically different version of 'developmentalism' applied to education in general, and African universities in particular, by the World Bank and the International Monetary Fund (IMF) as part of the structural adjustment programmes they imposed. On the one hand this opened the way to much needed alternative financial resources for African universities increasingly faced with crises of survival. On the other hand, the conditionalities on which such external funding was premised spelled disastrous consequences of both privatisation and commercialisation for key African universities.

5. The post-apartheid trajectory: 'cooperative governance', state intervention and failing HE institutions:

As already noted the adoption of the foundational principles of 'cooperative governance' as the framework of higher education governance in post-apartheid South Africa represented a fundamental reconfiguration of relations between the state and the higher education sector compared to the state-directed authoritarian order of the apartheid era. In the immediate post-1994 phase there was a deliberate and pronounced shift from a 'state control' model to a 'state supervision' model "because of a belief that higher education would perform better with the state in a supervisory rather than controlling role. ... Participation was to be driven by stakeholder participation under the auspices of a supervising state" (CHE 2004: 175). However, even by the time of the 1997 *White Paper* the implementation process was increasingly perceived to be one that required more direct government steering with the corollary of less consultation; by 2001 with the publication of the NPHE the trend was definitely in the opposite direction: "the National Plan

appeared to some to be a sign of intensified state steering of the system” (CHE 2004: 29). And with the launching of the process of mandated institutional mergers from 2002 the state explicitly took on the task of directing the restructuring of higher education institutions, given the failures of market forces and institutional voluntarism to break with the apartheid legacy: “Mergers and incorporations have been prescribed by the state as part of an explicit agenda of transformation, equity and efficiency in the sector. ... The South African state has taken the route of mandatory restructuring in the face of failure by HEIs to explore such solutions voluntarily.” (CHE 2004: 54).

Cumulatively, the shifts and changes in the process of restructuring higher education in the decade following 1994 issued in an on-going undermining of co-operative governance and a reversal to a more interventionist approach on the part of the state. As for the universities, some of them utilised the opportunities available during the period of ‘co-operative governance’ and in the context of the new quasi-market conditions in higher education to consolidate their effective institutional autonomy. A range of different institutional approaches have been identified including those of ‘strategic or soft managerialism’ and ‘unwavering entrepreneurialism or hard managerialism’ as against that of ‘reformed collegialism’ or ‘transformative managerialism’. Taken together this varied range of institutional responses and approaches reveals significant fault lines bearing on the framework of ‘co-operative governance’. Thus the ‘collegialist’ defence of academic rule and concern with consolidating the traditionally core academic business of the university may well come into conflict with a national agenda of political transformation. The approach of ‘transformative managerialism’, though, can effectively lend itself either to a national agenda of transformation or to an entrepreneurial response to market opportunities. It is not inconceivable that ‘transformative managerialists’, especially those of the ‘hard and unwavering entrepreneurial’ variety, may come to an accommodation with key aspects of the state’s national agenda of transformation, while ‘soft’ and ‘strategic managerialists’ may find common cause with the ‘collegialists’ concerned to defend academic rule or teaching and research as the core business of the university. The former alliance would amount to an ‘external compact’ between executive management and the state while the latter alliance would require an ‘internal compact’ between management and academic faculty within particular universities.

The distinction between a possible ‘external’ and ‘internal’ compact for institutional autonomy is closely related to the distinction between functional and substantive institutional autonomy. Without an associated ‘internal compact’ an external compact for autonomy, for example one involving ‘hard managerialists’ in the university and the state, would amount to the conditions for functional institutional autonomy. Only if such an ‘external compact’ could be conjoined with an ‘internal compact’, between the academic faculty and the university leadership and executive management, ensuring protection of scholarly freedom and academic rule, would this amount to the conditions for substantive institutional autonomy. What is needed is thus a dual compact for accountable autonomy, external as well as internal, while the necessary conditions for this would involve both a strong representative academic staff association as well as an intermediate system-wide representative forum for higher education institutions.

6. Institutional autonomy and accountability: comparative trends

Recent developments in higher education systems, across different academic cultures, are characterised by comparable trends relevant to institutional autonomy, accountability and academic freedom. These include a strengthening of the hierarchical elements in university governance, a turn from traditional patterns of academic rule to a more market-oriented approach to executive management, and an increasing insistence that universities should be more 'accountable' both in terms of 'quality assurance' of their core functions of research and teaching and in their external relations to state and society. More often than not alarms at the implications of this 'managerial revolution' are conflated with a supposed loss of the university's institutional autonomy. However, while there are definitely serious threats to scholarly freedom and academic rule, this is a misconception in so far as the university's institutional autonomy has, in some important senses, i.e. that of *functional* rather than *substantive* autonomy, actually been strengthened by some of these trends. In part this is a consequence of the very success of university-based science and research and a growing recognition of the strategic significance of universities for state and society. It should also be noted that the state's increasing concern with the universities did not necessarily assume the form of direct interference or take-overs; on the contrary, it tended rather to be concerned with strengthening the hierarchical and bureaucratic elements of academic authority in universities, often at the expense of collegial practices and academic rule:

"The literature indicates a marked trend towards the increased exercise of political and bureaucratic forms of authority at both campus and system levels. At the same time, there appears to be a marked decrease in the efficacy of professional authority, evident in the challenges to the academy." (Rhoades 1990: 1379)

In France reforms of the university system gave increased importance to academic chief executives on campus even if the authority of the massive national administrative bureaucracy in education persists; in Germany, too, reforms sought to increase the power of university chief executives. In the Netherlands the radical reforms of the new 1997 legislation mandated new rules of institutional governance and management "doing away with the internal distinction between academic and administrative affairs in favour of an integrated management approach except at departmental level" (de Boer 2006). These reforms are evidently inspired by external perceptions, on the part of state and society, that traditional forms of university governance will not be able to meet the challenges posed by current economic and political developments. While intended to strengthen the university's (functional) institutional autonomy, rather than to weaken it, these developments do amount to challenges to the internal structures of academic freedom and scholarly freedom.

What has also changed in recent times, with potentially momentous implications for the structural location of universities, is the macro-political context of the former European nation-states themselves. Within the evolving European Union universities can no longer be viewed solely as national institutions. The full implications for universities of the supersession of the 19th-century nation-states, in which the national universities played such a prominent role, by the new structures of European economic, political and cultural co-ordination and integration, are still unclear. What it certainly has brought about is an increasing emphasis on student and faculty mobility and exchange across national borders along with a process of standardising degree structures, university statutes, titles and examinations in order to facilitate joint programmes and exchange agreements. In significant ways these developments have been brought together since the late 1980s in the context

of the Bologna process. On closer examination, though, it appears that there actually are two interrelated but different processes under way under the general “Bologna” banner. One process, initiated by the universities themselves, is represented by the *Magna Charta Universitatum* signed in Bologna in 1988 by more than 400 Rectors of European universities. This essentially amounted to a reaffirmation of the traditional humanist values of the university, reaching back to its medieval origins and encapsulated in the Humboldtian ideal of the unity of teaching and research for the modern research university. In principle this could be taken as signalling a potential break with the ‘Continental’ tradition of incorporating universities into a centralised nation-state, with the universities reverting to more autonomous roles as locally or regionally rooted scholarly communities independent of the state. However, there seems to be little indication as yet of anything like such a wholesale re-orientation of established European academic culture. Moreover, anything of that kind could also be overtaken by the other Bologna process, that represented by the Bologna Declaration on the creation of a European Area of Higher Education by 2010. This Bologna process has not directly involved the universities or the academic community (except as consultative members) but proceeds at the level of the state as an intergovernmental process. While there is a considerable overlap in the concerns of the two Bologna processes, especially through promoting academic mobility across national borders by standardising institutional structures and formal requirements in higher education, it is also becoming clear that these are informed by fundamentally different conceptions of the nature and mission of the university itself. These differences have become more pronounced through the involvement of the EU Commission as a full member of the Bologna process. The EU Commission set out to develop a vision of the emerging knowledge economy over the next 15-20 years, but did so within an instrumental economic-technological framework. Thus while the universities, for their part, are re-affirming the validity of their traditional humanist values and the continuing relevance of the Humboldtian vision, the EU Commission at state level is espousing a very different market-oriented framework for university reforms. For the time being these basic tensions and contrary visions remain unresolved.

In different ways, then, institutional autonomy is understood as intrinsically compatible with accountability. Contemporary universities can no longer invoke their institutional autonomy as a foundational principle absolving them from accountability to state and society. Significantly, though, the different senses of *functional* and *substantive* institutional autonomy imply different notions of accountability. On a *substantive* conception of institutional autonomy, academic freedom, in the senses of scholarly freedom and academic rule, is viewed as an intrinsic feature of institutional autonomy itself. On the *functional* conception of institutional autonomy, though, what matters is only whether the university, taken as an institutional whole, is able to function independently without undue interference by external parties or forces even if it is internally dismantling academic rule and restricting scholarly freedom in various ways. On the *substantive* conception of institutional autonomy, accountability is primarily defined inwards with regard to the protection of scholarly freedom and academic rule. It is less obvious to whom the university leadership and executive management are considered accountable in terms of the *functional* conception of institutional autonomy. Apart from general financial accountancy they may in the first instance be accountable to the university Council or Board of Trustees as a stand-in for their basic fiduciary accountability. But that fiduciary accountability is actually quite vague and open-ended. If business or corporate interests are strongly represented on the Council or Board of Trustees then the actual content of the fiduciary accountability could be informed by notions of making the university a more efficient

enterprise in market-oriented terms. (The oversight body could also be constituted more on stakeholder principles, representing various constituencies in civil society and the local community, but in that case more political and democratic notions of accountability would come into play along with more a more instrumental view of the university on which institutional autonomy is subordinate to developmental or political purposes) The market vision of the university is consistent with a positive valuation of functional institutional autonomy as required for efficiency and enterprise but effectively reduces accountability to financial accountancy and 'quality assurance'. On this vision fiduciary accountability has little or no effective content: the corporate leadership of the enterprise university (including both executive management and the business-oriented members of Council) are no longer conceived as accountable to the academic faculty or even to the broader university community, but they also do not have the equivalent of shareholders to satisfy -- unless the state assumes the prerogative of being the recipient of such a reporting regime, thus collapsing 'accountability' into an authoritarian command structure.

It is important to note that historically universities or other institutions of higher education and/or scholarly learning were not always expected to be 'accountable' to society and/or the state. Consider the famed (or notorious) 'ivory towers', i.e. the distinctive communities of scholars and/or teaching colleges which emerged in late medieval times in Europe and reproduced themselves over many generations during the early modern period. By and large these were small-scale and localised developments, peripheral to the major centres of political rule, social power and cultural authority, comparable to the many diverse vocational guilds, sectarian groupings, mystical ingatherings, cabbalistic traditions or utopian communities of that period. As effectively self-supporting and self-governing inward-looking communities, the ancient universities and colleges were by no means unique, nor did they have notable wider social and political importance at the time. To the extent that they were perceived neither as posing major threats to the political rulers or social elites of the day, nor as potential resources for important economic, social or military developments, there was no particular need for external parties or authorities to concern themselves with the internal scholarly activities of such institutions. The social and political toleration of these scholarly 'ivory towers' in medieval or early modern Europe by the powers that be may be considered as evidence of a certain benign neglect. As Altbach has observed,

"In a sense, when universities have been least central and important, their autonomy has been safest. Institutions that are pure ivory towers are of little relevance to the society and external authorities are often content to leave them alone. When academic institutions and the professoriate are at the center of societal development and when the universities require significant social resources, many forces seek to challenge traditional autonomy."
(Altbach 1991)

In general, we could expect a positive correlation between the general social and political importance of universities - in the sense of requiring substantial public funding and resources or in the sense of providing indispensable knowledge, skills and technology needed for social, economic and industrial development - and the level and extent of external concern and involvement with university matters. During the period when universities were still privately-funded institutions, whether under the auspices of the church or established by local benefactors and trustees, and mainly functioned as teaching colleges for limited social elites, it should not be surprising that public authorities and society at large were content to leave them largely to their own devices. It is a different matter when universities become dependent on substantial amounts of direct and indirect

public funding, when higher education is no longer an 'elitist' preserve but a generally recognised democratic right, and when the contribution of the research university has been identified as a vital component of economic growth and technological development for the emergent 'knowledge society'. In this kind of context we may speak of a 'high stakes' compact for autonomy. It would be surprising, and require some special explanation, if state and society continued to allow universities the same autonomy in these circumstances. However, in broad terms this is indeed what happened with the rise of the modern research university from the late 19th century to the mid-20th century: the university developed into a vital institution for modern industry, state and society but for a time managed to preserve a substantial degree of autonomy in the name of academic freedom. In this perspective it is easier to understand the late-20th-century demands by various forces in state and society for universities to become more accountable – such challenges to its traditional autonomy are in effect only to be expected as "the price of success" for the modern university. However, reverting to an authoritarian 'command model' for the Higher Education sector and doing away with the foundational principles of 'cooperative governance', as suggested by the recent legislative amendments and proposed regulatory changes, would amount to a reactionary development of a different order altogether.
