

South African higher education in the first decade of democracy: from cooperative governance to conditional autonomy

Hall, M., & Symes, A. (2005). South African higher education in the first decade of democracy: from cooperative governance to conditional autonomy. *Studies in Higher Education*, 30(2), 201–214.

This paper tracks policies in the governance of higher education over the first decade of South Africa's democracy. The first democratically elected government of 1994 was faced with the formidable task of dismantling the structures of apartheid education. The foundations for a new policy were laid by a National Commission that reported in 1996, and advocated a philosophy of 'cooperative governance' by a wide range of stakeholders. However, the government's formal policy, articulated in a White Paper and legislation the following year, established a more directive role for the state. Successive amendments to the legislation culminated in a National Plan for Higher Education in which the state plays a strongly directive role, and seeks to recast the higher education landscape through extensive incorporations and mergers.

While there is a strong case for state steering of public education in a country such as South Africa, where urgent attention to key issues of economic development and social justice is essential, the concept of cooperative governance is now a hindrance in finding the appropriate balance between the government's responsibility to the electorate and institutions' rights to academic freedom.

'Conditional autonomy', in contrast, allows both for the procedural role of the state in ensuring the effective use of public money and the substantive rights of higher education institutions to academic freedom in teaching and research.



Studies in Higher Education
Vol. 30, No. 2, April 2005, pp. 201–214

 **Routledge**
Taylor & Francis Group

South African higher education in the first decade of democracy: from cooperative governance to conditional autonomy

Martin Hall* and Ashley Symes
University of Cape Town, South Africa

This paper tracks policies in the governance of higher education over the first decade of South Africa's democracy. The first democratically elected government of 1994 was faced with the formidable task of dismantling the structures of apartheid education. The foundations for a new policy were laid by a National Commission that reported in 1996, and advocated a philosophy of 'cooperative governance' by a wide range of stakeholders. However, the government's formal policy, articulated in a White Paper and legislation the following year, established a more directive role for the state. Successive amendments to the legislation culminated in a National Plan for Higher Education in which the state plays a strongly directive role, and seeks to recast the higher education landscape through extensive incorporations and mergers. While there is a strong case for state steering of public education in a country such as South Africa, where urgent attention to key issues of economic development and social justice is essential, the concept of cooperative governance is now a hindrance in finding the appropriate balance between the government's responsibility to the electorate and institutions' rights to academic freedom. 'Conditional autonomy', in contrast, allows both for the procedural role of the state in ensuring the effective use of public money and the substantive rights of higher education institutions to academic freedom in teaching and research.

Introduction

2004 marks the first decade of South Africa's democracy. The past ten years have seen extensive restructuring of the institutions and bureaucracies of the apartheid state, including the apparatus of publicly funded higher education. In this paper, we look at the restructuring of higher education in South Africa through the lens of governance, specifically, governance at the system level—the formal relationship

*Corresponding author: Bremner Building, University of Cape Town, Rondebosch 7700, South Africa. Email: mhall@bremner.uct.ac.za

between the state and individual institutions through the devices of legislation and regulation.

This is only one of several ways of tracking trends, policies and their outcomes. Other significant dimensions are, for example, participation (particularly important, given South Africa's history of racial segregation in higher education), knowledge production (again important, given the demands of a developing economy) and convergence with international trends (significant because of the peculiarities of apartheid arrangements). To some extent, the analysis of governance serves to frame these other dimensions, because the system of legislation and regulation defines the tension between institutional autonomy, on the one hand, and the policy objectives of government as well as the public accountability of institutions to respond to these, on the other hand.

Simply put, before 1994, the claim to legitimacy for government policies in higher education rested on meeting the interests of the white minority. Governance arrangements directed student participation, resource allocations and research funding to this end, and defied international trends. After 1994, the legitimacy of government policies has been founded in a discourse that stresses the interests of all South Africans. Shifts in governance arrangements, that in turn frame policies for increasing equitable participation in higher education and for achieving outputs considered appropriate for a developing economy, reflect an interpretation of the appropriate relationship between the state and individual institutions.

The defining trend in governance over the past decade has been a systematic increase in direct state control over higher education. For many, this has been counter to expectations. Many educational institutions had been focal points of opposition to the apartheid state through the 1970s and 1980s and many believed that the post-1994 higher education sector would be shaped around the model of the liberal South African university, with a high degree of institutional autonomy (particularly in the use of funds and the determination of the curriculum) and a national Department of Education that would apply a light hand in steering the public higher education system.

These expectations are reflected in the work of the National Commission of Higher Education, set up soon after the first democratic government of 1994, and reporting in 1996. The National Commission introduced the key concept of 'cooperative governance', seeking broad participation with commonly held objectives. Cooperative governance was intended as a system in which autonomous higher education institutions would work in a range of partnerships with government and other stakeholders. Given the assumed willingness of partners to set aside vested interests for the common good of public higher education, contested issues would be broached through negotiation rather than conflict.

Soon after the publication of the National Commission's report, however, government began to move away from the stakeholder concept, and to buttress, via legislation, its primary role in steering the higher education system. The Council for Higher Education (CHE) is a case in point. The National Commission had recommended a council of stakeholders that would act as an independent buffer between the state and

the sector. However, the Higher Education Act 1997 established the CHE as council of ministerial appointees, albeit with the proviso that there be public advertisement for nominees to fill vacancies. It is consistent with this trend that the government's 2001 National Plan for Higher Education is very different from the National Commission's report of five years earlier. The National Plan for Higher Education, along with subsequent announcements of incorporations and mergers that will reduce South Africa's combined total of 36 universities and technikons (technical colleges) to 23 institutions, make it clear that the state no longer believes that public higher education can be entrusted to the sort of broad, stakeholder participation in governance envisaged by the National Commission in 1996.

Some would argue that this must be retrogressive—that any state control in governance is contrary to the principles of academic freedom and counter to the conditions necessary for higher education to prosper. This argument, though, fails to accommodate the requirement that government is accountable to the electorate for the appropriate and effective use of public funds. This is, appropriately, a key issue in a country such as South Africa, with marked disparities between a wealthy minority and a large, impoverished majority of citizens, and with major challenges in the provision of basic services such as health, housing, education and employment. But at the same time, it is apparent that an effective system of higher education requires institutional autonomy in key areas of teaching and research. What is currently missing in the discourse of governance is a conceptual device that acknowledges the legitimate role of the state in steering the public higher education system, while also recognizing the rights of individual institutions to autonomous governance over their central business of research, teaching and learning.

Following Neave (1988), we propose that this can be rectified through the use of the concept of 'conditional autonomy'. Conditional autonomy recognises the role of the state in steering the system and its outcomes through procedural controls, while respecting the autonomy of individual institutions in the substantive fields of their intellectual work. We argue that conditional autonomy provides an appropriate set of principles for guiding the relationship between the state and higher education as South Africa enters its second decade of democratic government.

Initial transformations

The higher education system inherited by the first democratically elected South African government in 1994 was characterised by multiple divisions. Under the apartheid regime, the relationship between individual institutions and the state had varied considerably. The ten universities reserved for white students under apartheid legislation had enjoyed a substantial degree of autonomy. In contrast, other universities were administered as branches of the racially defined government bureaucracy (the Departments of Coloured Relations, Indian Affairs and Bantu Administration and Development), with tight controls over the appointment of teaching staff and similar attempts to control the curriculum. The technikon sector, in contrast again, had been established to promote vocational education and training, and the institutions in this

category together set a nationally controlled and synchronised curriculum, with weak or non-existent traditions of academic freedom in individual institutions (Cooper & Subotzky, 2001; Bunting, 2002).

Consequently, the need for the new government to create a single, national, integrated system of higher education was acute. Critical debates had been initiated in 1990, when South African political life was normalised with the unbanning of political movements, and the shaping of new policy reached its first formal milestone with the release of the report of the National Commission on Higher Education (NCHE) in 1996. In this early phase of South Africa's social, political and economic transformation, the touchstone for achieving consensus was the notion of a social contract between all stakeholders, whether the system in question was education, housing, health and welfare, or the other major domains in which the state has a primary interest. The goal was the suspension of sectoral interests in the broader cause of reconstruction and development, thus seeking to resolve the campus conflicts that were disabling higher education across the country. The Commission also wished to move forward rapidly in transforming institutions, and in instilling improved management practices without violating academic principles (Moja & Hayward, 2000). As a consequence, South Africa's new higher education policies came to be cast within a political philosophy known as 'cooperative governance', 'an attempt to combine, in a particular South African way, more democracy with more modern management' (NCHE, 1996, p. 199).

The National Commission conceptualised cooperative governance as a version of the 'state supervision' model already well tried in a number of other countries. In this model the government is 'an arbiter who watches the rules of the game played by relatively autonomous players and who changes the rules when the game no longer obtains satisfactory results' (NCHE, 1996, p. 199). The National Commission shaped this approach to take account of particular characteristics of the South African higher education system, including weak integration, poorly developed planning and regulatory structures, and low levels of mutual trust.

This philosophy of cooperative governance was recognised in the government's baseline policy and legislation for the governance of higher education—the 1997 White Paper and Higher Education Act (Republic of South Africa (RSA), 1997a, b). The White Paper emphasised that the goals and challenges of South African higher education—and higher education transformation—must be pursued within a social justice frame and following a cooperative process. In pursuing cooperation and partnerships in governance, the White Paper cited the need to:

reconceptualise the relationship between higher education and the state, civil society, and stakeholders, and among institutions ... The principle of democratisation requires that governance of the system of higher education and of individual institutions should be democratic, representative and participatory and characterised by mutual respect, tolerance and the maintenance of a well-ordered and peaceful community life. Structures and procedures should ensure that those affected by decisions have a say in making them, either directly or through elected representatives. It requires that decision-making processes at the systemic, institutional and departmental levels are transparent, and that those taking and implementing decisions are accountable for the manner in which they perform their duties and use resources. (RSA, 1997a, sections 1:13, 1:19)

The White Paper made it clear, however, that this emphasis on reconceptualised relationships did not mean that all participants in governance had equal authority and responsibilities. In this respect, the 1997 policy was already a departure from the National Commission's perspective of the previous year. At the system level, cooperative governance was rather to be understood as a system of delineated powers and constraints that remained hierarchical, while incorporating checks and balances designed to preserve the degree of institutional autonomy necessary for academic freedom in teaching and research. The principle of academic freedom was seen as one of the primary checks of the system: as a fundamental right of the South African constitution, academic freedom signified 'the absence of outside interference, censure or obstacles in the pursuit and practice of academic work' (RSA, 1997a, section 1:23).

The 1997 policy and legislation were clear that the state, in the form of the Minister of Education, is at the head of the hierarchy of authority and responsibility. The White Paper specified that government should have a 'proactive, guiding and constructive role' in higher education (RSA, 1997a, section 3:7). It is also clear that this role justifies direct intervention in the interests of ensuring transformation or preventing mismanagement: 'there is no moral basis for using the principle of institutional autonomy as a pretext for resisting democratic change or in defence of mismanagement.' Indeed, the policy specified that the state had an obligation to intervene in such circumstances, in the interests of public accountability: 'institutional autonomy is therefore inextricably linked to the demands of public accountability' (RSA, 1997a, section 1:24).

The White Paper interpreted public accountability as comprising three imperatives. First, institutions must account for their expenditure of public funds. Second, universities and technikons must make public the results they have achieved in spending public money. And third, institutions should demonstrate how they have met national policy goals and priorities (RSA, 1997a, section 1:25). Taken within the context of a commitment to cooperative governance and institutional autonomy, this means that the Minister cannot intervene on a whim; intervention can only be justified on fiduciary grounds, or if a public higher education institution is evidently not pursuing the policies for tertiary education which form part of the government's mandate. The White Paper is explicit about this:

it is the responsibility of higher education institutions to manage their own affairs. The Ministry has no responsibility or wish to micro-manage institutions. Nor is it desirable for the Ministry to be too prescriptive in the regulatory frameworks it establishes. Diversity and flexibility are important aspects of institutional responses to varying needs and circumstances. It is only in extreme circumstance that the Minister of Education, as the responsible representative of the elected government of the country, would consider intervening in order to assist to restore good order and legitimate governance and management in an institution. (RSA, 1997a, section 3:33)

The 1997 Higher Education Act provided the Minister with a number of instruments with which to steer the tertiary sector. The major consultative mechanism is the Council on Higher Education and, in particular, its annual consultative



conference. The Minister determines, in consultation with the Council on Higher Education and with the concurrence of the Minister of Finance, policy on the funding of public higher education, and allocates public funds to public higher education on a 'fair and transparent basis' (RSA, 1997b, section 39). The Minister may investigate the affairs of an institution directly if there are indications of 'financial or other maladministration of a serious nature', factors that 'seriously undermine the effective functioning of the public higher education institution', or, more generally, if such a direct investigation is in 'the interests of higher education in an open and democratic society' (RSA, 1997b, sections 44, 45, 47). The 1997 Act also gave the Minister the more extensive powers to establish a higher education institution, to 'merge two or more public higher education institutions into a single public higher education institution', or to close an institution after consultation with the Council on Higher Education (RSA, 1997b, sections 20, 23, 24).

While policy and legislation established the Minister as the head of the system of higher education governance, linkage between autonomous institutions and the state does not take the form of direct accountability to the Minister, or to Parliament. University and technikon Councils, as the supreme governing bodies of institutions, are accountable more broadly to civil society and Councils retain their linkage to the state through their fiduciary role. While the Act requires that 60% of Council members be external, and that up to five be ministerial appointees, individual institutions are thereafter given considerable latitude to determine from which constituencies external members are drawn. External members of Council reflect a range of backgrounds, equity profiles, competencies and perspectives, but do not act on Council as mandated stakeholder representatives. To this extent, South Africa has followed the tradition of the English-speaking world, vesting trusteeship in lay members of governing boards that represent the public interest.

State steering

Cooperative governance, then, was established as a form of state supervision that relies on a political mode of coordination based on the participation of diverse stakeholders within a hierarchical system of authority, and with formal constraints on the exercise of power (Cloete, 2002). Taken together, the report of the National Commission on Higher Education, the 1997 White Paper and the Higher Education Act are a benchmark against which the consistency of government policy can be assessed.

One view of cooperative governance in practice is conveyed in the Ministry's National Plan for Higher Education, published in 2001. Looking back over the previous five years, it is clear that the Ministry did not regard cooperative governance as a success. The Plan asserted that 'voluntarism ... has failed to encourage institutional collaboration', and that policy has been undermined by the competitiveness of individual institutions (RSA, 2001b, sections 1.3, 6.4). This viewpoint was expressed in the context of a string of legislative interventions in the preceding years. The 1999 Higher Education Amendment Act had allowed for the appointment of an



Administrator to a higher education institution if an audit of its financial records, or the report of an Independent Assessor, were to reveal 'financial or other maladministration of a serious nature at a public higher education institution or the serious undermining of the effective functioning of a public higher education institution'. Initially limited to an appointment for two consecutive six-month periods, a further amendment in 2001 allowed an Administrator to be appointed indefinitely (RSA, 1999, section 6; RSA, 2001a, section 15).

Other amendments had allowed the Minister to direct the policy and practices of an individual institution by direct intervention. Thus the Higher Education Amendment Act of 2000 allowed the Minister to 'determine the scope and range of operations' of a university or technikon 'in the interests of the higher education system as a whole'. More specifically, an additional amendment in the following year allowed the Minister to define 'the physical location of an institution ... where the institution carries out its teaching and research activities' (RSA, 2000, section 2; RSA, 2001a, section 24).

Lest there be any ambiguity, the National Plan made the state's position quite clear:

the Ministry will not ... hesitate in certain limited circumstances to intervene directly in the higher education system in order to ensure stability and sustainability ... Equally, the Ministry will not hesitate to intervene to ensure the implementation of national policy and transformation goals should this prove necessary ... The Ministry is acutely aware of the delicate balance that requires to be maintained between institutional autonomy and public accountability. It is committed to maintaining this balance. The Ministry believes that the solution to finding the appropriate balance must be determined in the context of our history and our future needs. The Ministry will not however, allow institutional autonomy to be used as a weapon to prevent change and transformation. (RSA, 2001b, section 1.5)

Conditional autonomy

This review of the policy positions and legislation of 1996–7, the subsequent amendments to the legislation, and the Minister of Education's assessment of the condition of public higher education in 2001, make it clear that the idealism of the National Commission's concept of cooperative governance had faded rapidly in the heat of political realities. Rather than asserting, in the language of the government's 1997 policy, that there be 'no outside interference, censure or obstacles in the pursuit and practice of academic work', the Minister was insisting that he would 'not hesitate to intervene to ensure the implementation of national policy and transformation goals should this prove necessary'. This change in interpretation of the role of the state, over a rather short period, calls for a re-evaluation of the utility of the underlying principle of cooperative governance. What, then, is the appropriate balance between institutional autonomy and the steering role of the state, and how can the often-complex factors that determine this balance be negotiated, defined and translated into everyday practice?

Firstly, it is evident that the case for institutional autonomy in developed economies such as those of Europe and North America does not necessarily rest on the

same arguments as in countries such as South Africa. Countries with developed economies have high participation rates in higher education and, increasingly, knowledge economies in which there is the capacity for high levels of personal investment in specialised, post-secondary qualifications. The needs of developing countries, faced with massive social exclusion and their particular economic imperatives, may well be very different, and recent neo-liberal trends in higher education governance at the national level may not be applicable.

These points made, a good case can nevertheless be argued for indirect state steering and a high degree of institutional autonomy in developing countries. Neave and van Vught argued that 'government regulation may be analysed by asking what pattern of decision-making is appropriate in the light of the specific characteristics of the context in which it will be used' (Neave & van Vught, 1994, p. 4). They suggested that government strategies of rational planning and control require extensive state capacity to evaluate all conceivable consequences and alternatives in the light of holistic state-determined objectives. In contrast, self-regulation recognises that knowledge is uncertain, and that the best way to deal with this is through monitoring the performance of the self-regulating decision-making units.

Thus, a top-down, rational planning approach would require a large Department of Education with the capacity to analyse a continual flow of data from all higher education institutions, and induce from this data a series of scenarios that could be accurately rated for their probability of success. Such an approach would also require that information provided by institutions be comprehensive and accurate. In addition, effective state control would require that the primary variables determining the shape and size of each higher education institution could be predicted with a reasonable degree of certainty. These requirements are almost impossible to meet in developing countries. As a consequence, Neave and van Vught suggest that self-regulation is an inherently more suitable form of governance in developing economies than is state control. Self-regulation promotes governance that is flexible and responsive to the demands of an uncertain environment.

The combination of the heavy hand of government regulation, poor-quality information and a highly uncertain environment is likely to have a deleterious effect on higher education, as the recent history of universities in both Latin America and Africa has shown (Levy, 1986; Hayward, 1997). It is also apparent that the quasi-market analogies favoured in countries such as the UK, USA and Australia are equally inappropriate, and may bring serious problems of their own. One such set of problems is likely to stem from unregulated privatisation. Private universities, making use of international capital, are naturally interested in recruiting those students in developing contexts who are able to pay high fees. This leaves the state sector with proportionally increased costs for supporting poor students, and for dealing with issues of social justice in general. Universities in the UK, USA and Australia that recruit aggressively overseas aim to siphon students from wealthy families in developing countries, aggravating domestic difficulties in achieving an equitable balance between fee revenues and state subsidies.

The need for a finer definition of forms of state steering and institutional autonomy has been recognised in recent policy positions for higher education in sub-Saharan Africa. Thus a study commissioned by the World Bank concluded that 'government guidance is an essential part of the solution' (Task Force on Higher Education, 2000, p. 58). However, the oversight role of governments on a system-level should be mediated by means of 'buffer mechanisms', such as councils of higher education that advise government on issues such as size, shape, funding, quality assurance, promotion mechanisms and accreditation in higher education, and research councils that fund and promote research.

It can be concluded, then, that there is a strong case for institutional autonomy in countries such as South Africa, but that this rests on a different set of premises from the arguments for unbundling, commercialisation, competition and the substitution of profit for public revenue that have held the day in policy debates in highly developed economies. Neave and van Vught's conclusion of a decade past still applies:

irrespective of the dimension or level to which it is applied, autonomy is a powerful, pervasive and central construct. It is powerful because it allies both the ideal of what ought to be with the concrete of what is. It is pervasive because in varying forms and through myriad organisational patterns, it permeates the way in which academic work is carried out ... It is central because, whether by its presence or by default, it acts as a referential point in determining—and also in classifying—the nature of authority exercised within the institution and outwards in the relations between the institution and public authority. (Neave and van Vught, 1994, p. 8)

The question remains: how can institutional autonomy and the facilitative and directive role of the state be conceptualised for the purposes of practical, day-by-day policies? A possible answer lies in a more nuanced conceptualisation of the complex notion of autonomy, which in turn guides appropriate assignment of roles to state and institutions in system-level governance.

Berdahl suggests that:

taken most simply, 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 constituency(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. (Berdahl, 1990, p. 171)

Berdahl argues that a starting-point for achieving such a balance is provided by distinguishing the constituent parts of autonomy. These can be defined, he suggests, as 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 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' (Berdahl, 1990, p. 172).

These concepts provide the basis for negotiating a proper balance in the respective roles and responsibilities of the state and higher education institutions, including



defining the 'essential ingredients' of autonomy, the most desirable form of coordination within the system, and the possible domains of policy steering or regulation (Berdahl, 1990, pp. 172, 174–5). A governance system incorporating the highest degree of institutional autonomy would allow both substantive and considerable procedural autonomy to the institutions. This is perhaps what is suggested by a 'pure' market model of higher education. However, this leaves little facilitative and directive power for the state. Removal of substantive autonomy to any significant degree immediately impinges on academic freedom, suggesting that the principal locus of facilitative and directive power is in procedural controls: state steering of procedural controls can condition substantive autonomy at institutional level.

What is needed, then, 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. This quality is captured in the concept of 'conditional autonomy' (Neave, 1988; Gomes, 2000; Hall & Symes, 2003). 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. In introducing this concept in the context of the UK, France and The Netherlands, Neave (1988) saw conditional autonomy as a "re-negotiation" between the external norms of national priorities and the internal norms of academia. In turn, Gomes has shown that this is a valuable distinction in understanding policy directions in contemporary Brazil (Schwartzman & Klein, 1994; Gomes, 2000), and conditional autonomy is evident in the contemporary higher education systems of other Latin American countries as well (Marquis, 1994; Bernasconi, 1999; Marquina & Haberfeld, 2000).

Does the concept of conditional autonomy surrender academic freedom? Moja *et al.* (2003) argue that conditional autonomy is dangerous, in that it would allow a future, authoritarian South African state to use legitimated procedural controls to render substantive freedoms meaningless. They argue that, rather than changing the policy, the principles developed by the 1996 National Commission on Higher Education should be reasserted. The difficulty with this defence is that it fails to recognise the political pragmatism, and its consequences, of the settlement of the early 1990s. Cooperative governance allowed for broad stakeholder participation in determining the policies and practices of the higher education system. But the Commission's report, and the subsequent White Paper and Higher Education Act 1997, failed to indicate how stakeholder interests should be balanced with one another. Nor did they indicate how the Ministry of Education should reconcile its position as one of many stakeholders in the higher education sector, on the one hand, with its accountability to the electorate for the efficient and effective use of the public funds on which universities and technikons in South Africa depend, on the other hand.

We have shown how, through a series of amendments to the legislation and a hardening of policy culminating in the 2001 National Plan for Higher Education, the state has asserted its right to be regarded as the primary and determining stakeholder in a way that was unanticipated by the National Commission. The problem with

cooperative governance—as a set of political principles—is that it offers no obvious defence to this assertion of state authority, as it provides no determinants for the optimal balance between institutional autonomy and public accountability (or commitment to the achievement of national policy goals). Intermediary organisations, such as the Council on Higher Education, the South African Universities' Vice-Chancellors' Association and the Committee of Technikon Principals, have proved largely ineffectual in mediating the interests of individual institutions within the state's programme for the sector. Incorporations and mergers have been forced through against the wishes of the majority of institutions involved, and legal challenges have so far proved inconclusive. The academic sector, vociferous in some universities in opposition to apartheid in the 1970s and 1980s, has been remarkably acquiescent. Rather than providing a robust set of principles that could serve as benchmarks for interpretations of policy, cooperative governance seems to have created a policy fog in which academic freedom has itself become less clear as a principle.

In contrast to Moja *et al.* (2003), we would argue that conditional autonomy provides the basis for asserting the right of individual institutions to pursue research objectives on their own terms, to interpret their social responsibilities, to determine the content of the curriculum and to teach in the manner that they think best. This is because conditional autonomy recognises that a democratic state will always have a legitimate, overarching accountability for the disbursement of public funds and for the authentication of academic qualifications. By distinguishing this framework of procedures from the substantive content of research, teaching and social responsiveness, the concept of conditional autonomy helps to define the distinction between state steering of higher education and state interference in the academic domain.

An example serves to illustrate how conditional autonomy can be applied as a conceptual device to clarify what should be regarded as the legitimate, procedural, domain of the state and what should be defended as falling within the substantive autonomy of higher education institutions. The Minister of Education has devised two mechanisms for aligning higher education outputs more closely with government policy objectives. The first, announced but yet to be implemented, is a new funding formula in which the national Department of Education will award institutions subsidised student places in a grid of programmes and qualifications. The second, known as the Programme and Qualification Mix (PQM), and implemented in 2002, specifies which qualifications and attendant curricula each public higher education institution will in future be allowed to offer.

The concept of cooperative governance offers no practical assistance in determining appropriate responses in pragmatic situations such as these—the realities of bureaucracies in which principles of autonomy and control are won and lost. The concept of conditional autonomy, on the other hand, suggests how guidelines could be developed. Determining how public funds are spent on student places in higher education is a procedural matter, and a legitimate area in which the state should consult with higher education institutions in determining a policy that both meets the needs of higher education and the interests of the electorate in general. In contrast,

determining what should be taught in a university or technikon is the clear, substantive right of the Council and Senate of each institution, and the Minister's claim to the right to prohibit a higher education institution from teaching an academic discipline, whether or not student places on the programme are subsidized, should be challenged as a violation of academic freedom.

Equivalent tests can easily be devised for the similar—and numerous—mechanisms that the state necessarily introduces to translate broad policy into daily practice. Although less dramatic than the confrontations between some South African universities and the government in earlier years, we argue that these are the new, bureaucratic barricades at which the principles that shape higher education will be won or lost. Traditionalist concepts of academic freedom, that work from the premise that the state should have no role in higher education at all, fail to accommodate the democratic obligations of government in the disbursement of public funds (a particularly evident obligation in a country such as South Africa, facing the challenges of massive social and economic inequalities). Cooperative governance, with its ill-defined concepts of stakeholder participation, confuses the situation. The period from the 1997 White Paper to the 2001 National Plan for Higher Education has seen a systematic tightening of state control and the erosion of both the procedural and the substantive autonomy of individual institutions. All that cooperative governance requires is that government 'consults'—interpreted as the publication of intention with a period for comment. It can then appear that other stakeholders have voluntarily surrendered their interests.

The clear weakness here is the lack of pragmatic definitions, setting out what academic freedom means in daily practice. The danger can be easily demonstrated by rephrasing the bureaucratic terminology of the Programme and Qualification Mix in the more familiar language of academic discourse. The PQM exercise asserts the authority of the state to prohibit a university from offering a programme and qualification in, say, Chemistry, or Philosophy, or Music. Had such an assertion been made in the late 1980s, the academic staff of South Africa's liberal universities would have been on the streets in protest. When this assertion was made in 2002, it passed without protest and is now incorporated as legitimate practice.

We argue that the concept of conditional autonomy recognises both the legitimate rights and obligations of the state while, at the same time, offering the practical basis for the defence of the substantive autonomy of individual institutions. There is an urgent need for such a re-evaluation of the relationship between universities and technikons, and the state, in South Africa. 2004 marks both the end of the first decade of democratic government in South Africa, and the launch of the first, merged higher education institutions that are an outcome of the government's plan for the restructuring of the sector. This is an opportunity for revisiting the principles through which general policies are translated into daily practices.

There will, in future, be increased pressure on government to direct public expenditure to address primary policy areas, such as health, housing, basic education and employment, and to align publicly supported institutions, such as universities and technikons, to the achievement of such policy goals. Higher education, as a publicly

funded sector, needs to establish the terms of a discourse that supports both its relationship with the state in serving the public good and the substantive autonomy of institutions that allows the creation of new knowledge and the education of fully qualified graduates.

Acknowledgements

This paper is based on work commissioned by the Council on Higher Education (see Hall *et al.*, 2002; available at: <http://www.che.org.za>). We are grateful to Thierry Luescher for his assistance, to Hugh Amoore and an anonymous reviewer for their insights, and to Saleem Badat and Lis Lange for their support and comments. The views expressed in the paper are our own.

References

- Berdahl, R. (1990) Academic freedom, autonomy and accountability in British universities, *Studies in Higher Education*, 15(2), 169–180.
- Bernasconi, A. (1999) Second generation reforms in Chile, *International Higher Education*, 15, Spring, 13–15.
- Bunting, I. (2002) The higher education landscape under apartheid, in: N. Cloete, R. Fehnel, P. Maassen, T. Moja, H. Perold & T. Gibbon (Eds) *Transformation in higher education: global pressures and local realities in South Africa* (Cape Town, Juta), 58–86.
- Cloete, N. (2002) Policy expectations, in: N. Cloete, R. Fehnel, P. Maassen, T. Moja, H. Perold & T. Gibbon (Eds) *Transformation in higher education: global pressures and local realities in South Africa* (Cape Town, Juta), 87–108.
- Cooper, D. & Subotzky, G. (2001) *The skewed revolution: trends in South African higher education, 1988–1998* (Bellville, University of the Western Cape, Education Policy Unit).
- Gomes, A. (2000) Higher education autonomy policy and Brazil: changing the relationship between the state and higher education, *Higher Education Review*, 32(2), 35–59.
- Hall, M. & Symes, A. (2003) Co-operative governance or conditional autonomy? Principles for governance of South African higher education, *Kagisano CHE Higher Education Discussion Series* (Council on Higher Education, Pretoria), 2, 5–29.
- Hall, M., Symes, A. & Luescher, T. (2002) *Governance in South African higher education* (Pretoria, Council on Higher Education).
- Hayward, F. (1997) Higher education in Africa: crisis and transformation, in: M. Greene (Ed.) *Transforming higher education: views from leaders around the world* (Phoenix, AZ, Oryx Press).
- Levy, D. C. (1986) *Higher education and the state in Latin America: private challenges to public dominance* (Chicago, University of Chicago Press).
- Marquina, M. & Haberfeld, L. (2000) Argentina: between tradition and modernization, *International Higher Education*, 19, Spring. Available online at: www.bc.edu/bc-org/arp/soe/cihe/news-letter/news19/text7.html (accessed).
- Marquis, C. (1994) Argentina: the federal government and the universities, in: G. Neave & F. van Vught (Eds) *Government and higher education relationships across three continents* (Oxford, Pergamon), 193–209.
- Moja, T., Cloete, N. & Oliver, N. (2003) Would moving from co-operative governance to conditional autonomy contribute to effective governance? *Kagisano CHE Higher Education Discussion Series* (Council on Higher Education, Pretoria), 2, 30–39.
- Moja, T. & Hayward, F. (2000) Higher education policy development in contemporary South Africa, *Higher Education Policy*, 13, 335–359.

AQ2

AQ1

- National Commission on Higher Education (NCHE) (1996) *A framework for transformation* (Pretoria, Human Sciences Research Council Publications).
- Neave, G. (1988) On being economical with university autonomy, being an account of the retrospective joys of a written constitution, in: M. Tight (Ed.) *Academic freedom and responsibility* (London, Open University Press), 31–48.
- Neave, G. & van Vught, F. (1994) Government and higher education in developing nations: a conceptual framework, in: G. Neave & F. van Vught (Eds) *Government and higher education relationships across three continents* (Oxford, Pergamon), 1–21.
- Republic of South Africa (1997a) *A programme for the transformation of higher education (White Paper 3)* (Government Gazette No.18207), Pretoria.
- Republic of South Africa (1997b) *Higher Education Act, No. 101 of 1997* (Government Gazette No. 18515), Pretoria.
- Republic of South Africa (1999) *Higher Education Amendment Act, No. 55 of 1999* (Government Gazette No. 20651), Pretoria.
- Republic of South Africa (2000) *Higher Education Amendment Act, No. 54 of 2000* (Government Gazette No. 21784), Pretoria.
- Republic of South Africa (2001a) *Higher Education Amendment Act, No. 23 of 2001* (Government Gazette No. 22808), Pretoria.
- Republic of South Africa (2001b) *National plan for higher education* (Pretoria, Ministry of Education).
- Schwartzman, S. & Klein, L. (1994) Brazil: higher education and government, in: G. Neave & F. van Vught (Eds) *Government and higher education relationships across three continents* (Oxford, Pergamon), 210–224.
- Task Force on Higher Education (2000) *Higher education in developing countries: peril and promise* (Washington, World Bank).



PROOF CORRECTION MARKS

Instruction	Mark in text	Mark in margin
Leave unchanged	<u>text</u>	<u>stet</u>
Extraneous marks or damaged letter	encircle	x
Delete	/ or /—/	7
Insert or replace text	λ	/text to be added
Add (λ) or substitute (/): full stop	λ /	⊙
decimal point	λ /	⊙
comma	λ /	⊙
semi-colon	λ /	⊙
colon	λ /	⊙
apostrophe or quotation mark	λ /	λ λ
superscript	λ /	λ
subscript	λ /	λ
hyphen	λ /	/—
short or long rule	λ /	/— ^{en} or /— ^{em}
oblique	λ /	⊙
Wrong typeface or size	encircle	wf
Change to: roman (upright)	encircle	rom
italic	<u>underline</u>	ital
capital letters	<u>underline three times</u>	caps
small capitals	<u>underline twice</u>	s.c.
bold type	<u>wavy underline</u>	bold
lower case letters	encircle	/c.
Greek letters	encircle	(gk) adding Greek letter
Delete and close up	copy	7
Reduce space	in / copy	less #
Close up space	in copy	~
Insert space	in copy	#
Make space in line equal	λ	eq #
Insert space between lines	)	(
Reduce space between lines	(	)
New paragraph	[	para.
Run on, no new paragraph	2	run on
Transpose letters or words	λ	λ
Transpose lines		
Take character to next line	λ	take over
Take character to previous line	λ	take back
Raise text on page	λ	raise
Lower text on page	λ	lower
Check vertical alignment		
Check horizontal alignment		



AN AGREEMENT FOR THE TRANSFER OF COPYRIGHT

IN RELATION TO THE CONTRIBUTION OF YOUR ARTICLE ('THE ARTICLE') ENTITLED:

.....

By:.....

WHICH WILL BE PUBLISHED IN C-SHE

.....

In order to ensure both the widest dissemination and protection of material published in our Journal, we ask authors to assign the rights of copyright in the articles they contribute. This enables Society for Research into Higher Education ('us' or 'we') to ensure protection against infringement. In consideration of the publication of your Article, you agree to the following:

1. You assign to us with full title guarantee all rights of copyright and related rights in your Article. So that there is no doubt, this assignment includes the assignment of the right to publish the Article in all forms, including electronic and digital forms, for the full legal term of the copyright and any extension or renewals. Electronic form shall include, but not be limited to, microfiche, CD-ROM and in a form accessible via on-line electronic networks. You shall retain the right to use the substance of the above work in future works, including lectures, press releases and reviews, provided that you acknowledge its prior publication in the journal.
2. Our publisher, Taylor & Francis Ltd, shall prepare and publish your Article in the Journal. We reserve the right to make such editorial changes as may be necessary to make the Article suitable for publication, or as we reasonably consider necessary to avoid infringing third party rights or law; and we reserve the right not to proceed with publication for whatever reason.
3. You hereby assert your moral rights to be identified as the author of the Article according to the UK Copyright Designs & Patents Act 1988.
4. You warrant that you have at your expense secured the necessary written permission from the appropriate copyright owner or authorities for the reproduction in the Article and the Journal of any text, illustration, or other material. You warrant that, apart from any such third party copyright material included in the Article, the Article is your original work, and does not infringe the intellectual property rights of any other person or entity and cannot be construed as plagiarising any other published work. You further warrant that the Article has not been previously assigned or licensed by you to any third party and you will undertake that it will not be published elsewhere without our written consent.
5. In addition you warrant that the Article contains no statement that is abusive, defamatory, libelous, obscene, fraudulent, nor in any way infringes the rights of others, nor is in any other way unlawful or in violation of applicable laws.
6. You warrant that wherever possible and appropriate, any patient, client or participant in any research or clinical experiment or study who is mentioned in the Article has given consent to the inclusion of material pertaining to themselves, and that they acknowledge that they cannot be identified via the Article and that you will not identify them in any way.
7. You warrant that you shall include in the text of the Article appropriate warnings concerning any particular hazards that may be involved in carrying out experiments or procedures described in the Article or involved in instructions, materials, or formulae in the Article, and shall mention explicitly relevant safety precautions, and give, if an accepted code of practice is relevant, a reference to the relevant standard or code.
8. You shall keep us and our affiliates indemnified in full against all loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by us as a result of your breach of the warranties given in this agreement.

9. You undertake that you will include in the text of the Article an appropriate statement should you have a financial interest or benefit arising from the direct applications of your research.
10. If the Article was prepared jointly with other authors, you warrant that you have been authorised by all co-authors to sign this Agreement on their behalf, and to agree on their behalf the order of names in the publication of the Article. You shall notify us in writing of the names of any such co-owners.
11. This agreement (and any dispute, proceeding, claim or controversy in relation to it) is subject to English law and the jurisdiction of the Courts of England and Wales. It may only be amended by a document signed by both of us.

Signed

Print name

Date
