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‘Global Trends in University Governance’

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1 Introduction

What is university governance? Why is it important? What are the issues?

Universities as institutions of higher learning have become central to how countries envisage and plan for their future. They are one of the primary agencies of knowledge creation in a knowledge society; they are the pathway to social mobility for a large proportion of young people; they provide the skilled workforce and they are the vehicle for continuous upgrading of qualifications an expanding economy needs. Whether countries regard higher education as an investment in their future or as a cost, society, government, and a range of stakeholders have a legitimate interest in the work of higher education institutions. And through the governance of universities these various stakeholders may influence decision making in and by a university.

Governance, then, is the system of decision making within and for the university. The Australian National Audit Office defines corporate governance as the “processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation.”

Governance in this broad definition is dispersed, and we might distinguish between various mechanisms, including (1) state regulation, ie the government’s (or governments’) prescriptions as to how universities act in particular circumstances; (2) guidance by external stakeholders, ie government, intermediate bodies where they exist, representatives of industry and commerce on university boards; (3) academic self-governance, ie the traditional collegial decision-making within universities, and at a broader level “peer review-based self-steering of academic communities, for instance in decisions of funding agencies”, for example research councils; and (4) managerial self-governance, ie the formal organisational hierarchies and their roles in “internal goal setting, regulation, and decision-making “. I will focus on only one layer or agency of governance – the governing board, where external and internal stakeholders act together for the whole of the institution. The governing board usually consists of external or lay members and, in some countries, of a majority or minority of current members of the university – academic staff, general staff, undergraduate and graduate students and alumni. These governing boards may be called council, senate, board of regents, board of governors, board of trustees or similar.

Over the past decade or two many countries without a tradition of independent governing boards have instituted governing boards or are considering it. The context
for this is expansion of higher education and an increasing diversity of funding sources for higher education; globalisation of and competition between higher education institutions and systems; governmental concerns about efficiency and effectiveness of higher education institutions, ie performance and management.

These developments have been in parallel to granting universities more autonomy in countries where traditionally universities were overseen and sometimes directed by government ministries, including in continental Europe and parts of Asia. In countries with very strong state control, whether these be communist or democratic countries, there is considerable concern about accountability within the context of loosening state control. Good governance is crucial for appropriate accountability.

For Europe, Allan Larsson, Chairman of Lund University in Denmark quotes from an EU Commission document:

2. In return for being freed from overregulation and micro-management, universities should accept full institutional accountability to society at large for their results. This requires new internal governance systems based on strategic priorities and on professional management of human resources, investment and administrative procedures.3

Governance interacts with degrees of autonomy and where particular decisions are made.

Anderson and Johnson in their 1998 study of the extent of university autonomy in 20 countries defined autonomy for the purpose of their study as “the freedom of an institution to run its own affairs without direction or influence from any level of government.”4

They examine the following seven areas where government may be legally allowed to interfere and actually interferes:

- staff – appointments, promotions and status of academic and senior general staff;
- students – admissions, progress and discipline;
- curriculum and teaching – methods, examinations, content, text books;
- academic standards – degree standards, quality audits, accreditation;
- research and publication – postgraduate teaching, priorities, freedom to publish;
- governance – councils, academic boards, students associations; and administration and finance – funding of institutions; operating grants, capital and equipment grants, one-off tasks, non-government funding, accountability arrangements.5

Governments in the Anglo-American group were reported to have less legal authority to influence, interfere or intervene, and indeed exercise this authority less than in the other two groups of countries (European and Asian), with the European universities in the middle.
It is in the Anglo-American countries, where we also find the most established governance arrangements.

The USA has a long tradition of governing boards, called Board of Trustees or Board of Governors or Regents. And, indeed, the Washington-based Association of Governing Boards of Colleges and Universities (AGB) was founded as early as 1921 and serves its 1,200 member institutions and 34,000 individual members with a variety of resources.

The UK, too, has an association serving governing boards, the Committee of University Chairmen (CUC), which has produced a comprehensive Guide for Members of Higher Education Governing Bodies in the UK (2004), including a ‘Governance Code of Practice and General Practice’, and also commissioned a report on ‘Good Practice in Six Areas of the Governance of Higher Education Institutions’ (CHEMS, 1 October 2004).

In 2006, the first meeting of the International Association of University Governing Bodies took place in Granada, Spain with a large contingent of rectors and chairs from Spanish universities, where governance has become an issue in the lead up to new higher education legislation.

In Australia and New Zealand a number of reports have examined governance practice and recommended best practice.

Most of the reviews and reports have focused on role and structures, in a belief that explicit roles and certain structures would increase the performance of the councils/senates and enable them to meet the demands of the vastly changed and ever changing higher education environment.

Within an international context, then, the first issue is the scope of a governing board’s role.

2 Role of the board

The research literature on boards focuses mostly on company boards. Chait, Ryan and Taylor in their recent book Governance as Leadership (2005) distil from the literature these five functions of boards which virtually mirror those of university boards in countries with an Anglo tradition:

1. Set the organization’s mission and overall strategy, and modify both as needed.
3. Select, evaluate, support, and – if necessary – replace the executive director or CEO.
4. Develop and conserve the organization’s resources – both funds and facilities.
5. Serve as a bridge and buffer between the organization and its environment; advocate for the organization and build support within the wider community.

The AGB sees the following as a Board’s basic responsibilities:
• Approve the mission and purpose of the institution.
• Recruit, appoint, support and evaluate the chief executive officer.
• Guard the fiscal integrity of the institution:
  * Consider and approve the institution’s budget.
  * Monitor the resources and productivity of the institution.
  * Manage the institution’s endowment (in many public institutions and systems, this responsibility is delegated to an affiliated foundation).
  * Participate in fund-raising, both through personal philanthropy and advocacy.
  * Ensure that annual independent audits are conducted.
  * Meet the expectations of board accountability and transparency in the conduct of board affairs.
• Oversee and participate in periodic strategic planning and monitor progress on its outcomes.
• Be aware of educational, research, and service programs and demand evidence that the institution’s academic priorities are being met.
• In concert with the senior administration, engage with the institution’s major constituencies on a regular basis.
• Preserve institutional independence to protect the pursuit of truth, the generation of new knowledge, and intellectual inquiry so that they remain unencumbered by direct government control or special interest.
• Remain informed about institutional issues and the challenge confronting higher education.
• Serve, as necessary, as a final court of appeals on matters relating to governance and on institutional policies and practices in accordance with campus grievance procedures.7

In the UK governing bodies generally would not make a philanthropic and fund-raising role explicit. As a minimum they would have a statement of responsibilities which would include:

• approving the mission and strategic vision of the institution, long-term business plans, key performance indicators (KPIs) and annual budgets, and ensuring that these meet the interests of the stakeholders
• appointing the head of the institution as chief executive of the institution and putting in place suitable arrangements for monitoring his/her performance
• ensuring the establishment and monitoring of systems of control and accountability, including financial and operational controls and risk assessment, clear procedures for handling internal grievances and for managing conflicts of interest
• monitoring institutional performance against plans and approved KPIs, which should be where possible and appropriate, benchmarked against other institutions.8

Contrast this with a recent introduction of a board in one of the German federal states (Länder). The Hochschulrat (university council) advises the Presidency and oversees the management within a detailed legislative framework. As a last resort when in the course of oversight concerns cannot be resolved, the ministry of education must be
informed. In Austria the new university councils have both a strategic and supervisory function and also elect or dismiss the rector or vice-rector.

Vietnam is moving towards relaxing state control. Public sector higher education institutions are still “governed on behalf of the State by one or other of 13 different ministries” but the Education Law 2005 provides the legislative basis for governing councils “with responsibility for making decisions about the ‘purposes, strategies, projects and development plan’ and the ‘usage of finance and assets’” – but not the curriculum framework.

Already in 2003 the Prime Minister had advocated the establishment of governing councils with responsibilities akin to those in other countries, namely “(1) Setting up the mission, goals and strategic plans for the institution; (2) building specific regulations and rules for all activities in the institution; (3) approving important expenditure and investment projects of the institution; and (4) supervising the implementation of democratisation in the institution.”

In contrast, all Vietnamese private higher education institutions have governing boards and are responsible to the state through them. They also have responsibility for the financial health of their institution, and the Rector is likely to be accountable to the governing board.

Note that while there is near consensus across countries on the core functions of governing boards, there are considerable variations between and within countries, influenced by the intensity and extension of state oversight and control on the one hand, and the academic autonomy within the institution and of the leadership on the other.

### 3 Composition and size of governing boards

The **composition of the board** is a critical issue in both reviews of governance and in the research literature. With the increasing emphasis on performance and on good governance, on accountability and on competition between institutions within and beyond countries, governing boards need to have the right membership to fulfil their strategic and supervisory role.

Board members may be elected or appointed, may be from various internal or external stakeholder groups or from the citizenry at large.

External members may be elected by citizens, by graduates of the institution (convocation) or appointed by a governor (some US states), by a government minister (Australia), or by the board itself.

The Chair of the governing board is usually external and appointed by the governing board, at least in countries with a British tradition.

Internal members may be ex officio, eg the Vice-Chancellor and often Chair of Academic Board/Senate, the internal body governing the academic programs, or they
may be elected or nominated, eg representatives of academic staff, in some countries also general staff, and of undergraduate and graduate students.

In contrast, from a business perspective elected members from within the organisation are unacceptable and not at all usual (the exception being some companies in Germany).

Within universities the notion of ‘shared’ governance and collegial governance within a community of scholars still holds strong. However, over the past decade or so there has been an increased focus on the necessity to have a majority of external or independent/lay members of Council, and indeed, the Australian National Governance Protocols for Higher Education Providers stipulate this. This is in the belief that internal members of the University, eg staff and students find it difficult to speak or vote in the interests of the University as a whole rather than representing the interests of their constituencies. On the other hand, there have been voices saying that independent directors with no connection to the industry, in this case the university system, will be dependent on the Vice-Chancellor and will not be able to ask the right questions.

In the UK governance arrangements vary between the different parts (England, Scotland, Wales and Northern Ireland), and between pre-1992 and post-1992 institutions. The pre-1992 English and Scottish universities have a majority of external members, and the post-1992 universities operate within a framework which spells out various classes of appointment, “and will typically include senior officers of the university, co-opted members, elected staff members, graduates and student representatives”. At the University of Central England Birmingham, for example, the board consists of 16 members, 11 of whom are independent including the Chairman and Deputy Chairman. Others are the Vice-Chancellor, a member of Senate, one elected academic member, one elected non-academic member, and the President of the Student Union.

In the USA there is an established tradition of having a majority of external or lay members. As the AGB website states: “Trustees of independent colleges and universities are surrogates of the general public. They are responsible for acting on behalf of their fellow citizens and institutional founders as their individual consciences and best judgment dictate.”

With regard to public colleges and universities, the AGB notes that “public trustees serve colleges and universities that are ‘owned’ by citizens”, acting on behalf of their fellow citizens. The AGB regards these ‘citizen boards’ as “the best alternative to governmental control of higher education”.

Richard Ingram, former president of the AGB, warns that the political process in the appointment of trustees/regents can interfere with good governance and affirms that reforms are advocated.

With regard to internal members, eg staff and/or students, he notes that in the USA a large proportion of public university boards have student member(s) in a voting or non-voting capacity, whereas membership of academic staff (faculty) is less frequent. (Nine % of public boards having voting faculty members.)
In some countries the qualifications and expertise (some) lay members must have is
specified, eg in the UK and Australia. Even where this is not prescribed, it is
important for the Board to ensure that among its membership financial, commercial,
legal and higher education expertise is represented.

Size of the Board has been a pre-occupation of most reviews of university
governance. In the private sector the trend is to small boards, 6-8 directors. There is a
general belief that smaller boards are more effective, though there has been very little
research done on whether the size of the board actually determines the quality of
decision-making or the board’s performance. A recent study of corporate governance
and performance also noted that the research data is inconclusive on the relationship
between board size of private companies and the companies’ performance.¹⁶

Nevertheless, in Australia, the federal government has been committed to reducing
the size of university councils and has had to use legislation and financial penalties to
achieve this. Under the National Governance Protocols the maximum size is 22
members, a compromise position, likely to be changed to 10-14 in the near future,
closer to earlier recommendations in reports and inquiries.

The British CUC notes the variations in the system; and indeed, in the UK the sizes of
the governing boards vary considerably. University charters or acts normally specify
both size and composition of the governing board. Oxford and Cambridge are atypical
and are much in the media because of their cumbersome governance arrangements.
The CUC considers “no more than 25 members represents a benchmark of good
practice”.¹⁷ For the post-1992 universities legislation allows boards to be between 12
and 24 members. Both these figures are outside what in Australia is considered an
optimal size.

In Canada, board size varies, too, with the University of Alberta, for example, having
a board of 21 governors.

In South Africa, the Council on Higher Education Governance Task Team Policy
Report of 2002 Promoting Good Governance in South African Higher Education
recommended a maximum size of 24.

In the USA the governing boards of some private universities are very large, incl.
Harvard and Stanford, which is typical for private not-for-profit higher education
institutions.

Some examples of public universities demonstrate the variety of arrangements:

- the University of Michigan has a Board of Regents; eight Regents are elected
  at large in biennial state-wide elections with staggered terms; the President is
  an ex-officio members; the Board meets once a month in a public session

- the State University of Michigan has a Board of Trustees – eight Trustees are
  elected by state-wide referendum every 2 years for 8 year terms; the terms are
staggered. In 2005 there were 5 Republicans and 3 Democrats – 4 women and 4 men.

- The University of Illinois has a Board of Trustees of 13 members; 9 are appointed by the Governor of the State for 6 years; 3 students, one from each campus, elected for 1 year.

In Austria, university councils are small – five, seven or nine members.

Leblanc and Gillies in their recent book *Inside the Boardroom* mention that most of the nearly 200 directors they interviewed thought that the most effective size for a board was from ten to fifteen. They quote one of the directors: “with a smaller group of twelve to thirteen to fourteen the dynamics are easier. You have a real interchange of ideas and it is not a show”. \(^{18}\)

The effective functioning of the board is, then, more a question of group dynamics than of size.

4 Accountability of governing boards

Regardless of the composition of the board, regardless of whether members are appointed or elected, good governance or effective trusteeship means that members of the governing board do not regard themselves as representing their stakeholder group who elected or appointed them.

All members of the governing board need to act in the best interest of the university or college. They share equally fiduciary responsibility.

We have seen that governing boards have important strategic, financial and supervisory functions. The question is how these functions might best be exercised in a university.

The traditional model, and a collegial model is:

 Council as forum where representatives of stakeholder groups debate and deliberate: eg elected academic and general staff, elected undergraduate and postgraduate students, elected convocation/alumni representatives, appointed community representatives, incl from the Indigenous community, where appropriate

vs

 Council as a Board of Directors with executive powers or at least a primacy in higher level decision making and ultimate responsibility, the corporate model which is gaining ascendancy is some countries:

The accountabilities of boards derive from their roles and responsibilities. Thus governing boards are accountable for the achievement of mission and goals of the higher education institution; the current and future financial health of the institution;
its estate and material assets; sometimes all human resources; often the academic activities; compliance with a host of legislation.

Depending on the extent of autonomy and the locus of authority, governing boards are accountable towards government; towards institutional ‘owners’, and towards internal and external stakeholders.

While acknowledging and honouring the traditional collegial modus operandus of universities – more so in continental Europe than, for example, in Australia - governing boards do accept the need to work more like a Board of Directors.

Governing boards, and associations of chairs of governing boards (CUC, AGB) ensure that the boards perform effectively by adopting a code of conduct or practice. In South Africa, too, a Code of Governance was recommended by the Task Force on Governance.

In Australia, the National Governance Protocols for Higher Education Providers stipulate how members must conduct themselves:

All members of the governing body must be responsible and accountable to the governing body. When exercising the functions of a member of the governing body, a member of the governing body must always act in the best interests of the higher education provider.

Duties of members must include the requirements to:
(a) act always in the best interests of the higher education provider as a whole, with this obligation to be observed in priority to any duty a member may owe to those electing or appointing him or her;
(b) act in good faith, honestly and for a proper purpose;
(c) exercise appropriate care and diligence;
(d) not improperly use their position to gain an advantage for themselves or someone else; and
(e) disclose and avoid conflicts of interest (...)(National Governance Protocol 3)

The Protocols also require induction, professional development and evaluation. Both induction and professional development for board members has become ‘best practice’ and is offered in several other countries, including the UK and the USA

Evaluation of board performance, too, is becoming more common, and effective board performance evaluation is seen in the literature as a good governance attribute. The evaluation may take the form of the board’s self-evaluation using a questionnaire followed by discussion of the results; and/or evaluation of individual board members’ performance by each other, or the chair, or a third party which conducts a 360 degree evaluation.

A recent governance survey in the UK found that 91% of governing bodies had carried out an effectiveness review since October 2003.
5 The role of the CEO – Rector, Vice-Chancellor or President

We note that in the corporate world and in many university systems the board has the power and duty to hire and fire the CEO. The status and position of the Rector, Vice-Chancellor or President varies from country to country.

He or she may be a member of the governing board, as may be some of the Deputies or Vice-Rectors.

S/he may be *primus inter pares* (first among equals) acting as the senior member of an executive team, or be the chief executive officer (CEO) in whom the whole management of the university is lodged.

S/he may be a tenured professor or a person with a senior management background hired from anywhere in the world on contract.

S/he may be elected by the university community or selected by the Ministry, by the governing board or a combination of both.

The relationship, both formal and informal, between the president of the university and the governing board of the university will vary according to the power and authority vested in either role.

While boards and more particularly the chair of the board must evaluate the president’s performance, it is widely regarded as crucial that there be a relationship of trust, truthfulness and transparency between the two, and that the chair of the board mentor, if appropriate, the president, guide, counsel and advise him/her.

The famous dictum ‘Noses in, fingers out’\(^\text{21}\) applies as much to the board as a whole as to the relationship between president and chair of the board, and this is very much about monitoring, not managing.

The relationship, both formal and informal, between the president and the state, will impact on the governing body’s actual role. This includes the legislative and regulatory environment in which the president must act.

And the relationship, both formal and informal, between the governing board and the state (usually via a minister or ministry) will impact on the autonomy the president will enjoy in the exercise of management and leadership of the university.

Lastly, the relationship, both formal and informal, between the president and internal governing bodies, eg Academic Senate, will also impact on the performance, strategic direction and position of the university.

In most university systems with a British heritage, the Vice-Chancellor’s role has moved from being an elected *primus inter pares* to that of chief executive. Australia is an extreme example of this move where increasingly the hierarchy of formal delegations and delegates overrides the judgement, even decisions made by the traditional internal governing agencies.
Yet in European countries, as well as in some Asian countries, it is acknowledged that the rector’s or president’s role vis à vis the internal constituencies has to be strengthened so that the institution may be more able to change, adapt, act more quickly and thereby be more competitive.

6 Conclusion

Within the international arena, there are guidelines for good corporate governance, and nation states evaluate and adopt or adapt them. Equally, there are by now expectations about good governance in universities. And within the context of particular national higher education systems, traditions and aspirations, governance arrangements are diverse but share a core with each other and the private sector.

1 Australian National Audit Office, 2003 Better Practice Guide: Public Sector Governance, Australian National Audit Office, Canberra, p.6
2 Schimank, U ‘A Comparative Perspective on Changes in University Governance in Europe’, Public lecture at the ANU, 17 October, 2005, p.2
4 Anderson, D and Johnson, R, 1988 University Autonomy in 20 Countries, DETYA, EIP Program, Canberra, p.8
5 Ibid, p.1
7 AGB Statement on Board Accountability. Adopted by the AGB Board of Directors, January 17, 2007, p.10 www.agb.org
10 Ibid, p.77
11 Ibid
12 Ibid, p.78
13 CUC, Guide for Members of Higher Education Governing Bodies in the UK, p73.
14 www.agb.org/wmspage.cfm?parm1=141
17 CUC, Guide for Members of Higher Education Governing Bodies in the UK, p.41
19 Edwards & Clough, op cit, pp. 8,12
20 Fletcher, D at the Granada conference, October 2006
21 AGB. 2002 The Glion Declaration II: The Governance of Universities and Colleges