

CHAPTER 12

University Governance: More Complex than it Appears

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“...it was the best of times, it was the worst of times...” Charles Dickens (1859)

INTRODUCTION

In recent years, there have been reports of controversies and events taking place across universities around the world, with issues from conflicts of interest and institutional autonomy to cases related to sexual harassment and racial discrimination. We have witnessed an increasing number of demonstrations across university campuses on issues such as the race debate, fossil-fuel divestment and academic freedom. While these might be isolated incidents, they offer food for thought for the higher-education sector, particularly in regard to university governance. On many occasions, there were discussions about university governance, with some challenging the robustness or legitimacy of the university governance structure or leadership team. This is unsurprising as university governance is key in determining the success and failure of any university. Thus, when incidents occur, concerns will often be directed at university governance. However, as universities, we are complex organizations with a myriad of stakeholders both internal and external, and these stakeholders have different and sometime conflicting expectations of the role of universities or how university leaders should respond to certain events.

This paper explores recent events which outline the complex relationships between universities and key stakeholder groups, and the implications they have for university governance. Particularly, Presidents and Vice Chancellors are often put under the spotlight. So the job of a university president can be the best of jobs and the worst of jobs.

UNIVERSITY AND SOCIETY

There are certain societal expectations bestowed upon universities and their leadership. Society expects university presidents to be “cleaner than clean” and hold themselves to the highest standards of ethics and integrity. Yet, there is no uniform policy on what the highest standards entail. Indeed, actions that are considered acceptable by its stakeholders in one institution or country might not apply at another. Also, public sentiment seldom remains constant, so behaviour or conduct that might have been standard practice can quickly escalate into public concerns. We will highlight examples of how these issues come into play, and the implications on university governance.

Societal expectations of University Presidents

The first example relates to the presence of university president on corporate boards. According to Inside Higher Education (Wexler, 2016), in the US, “nearly one-third of public college presidents serve on corporate boards”. Yet, a decision by the University of Arizona’s President to take a paid position on the board of DeVry University, a private, higher-education company, prompted criticism from students, faculty, lawmakers, alumni and community members. At that time, DeVry was facing allegations from the Federal Trade Commission, which claims that the company made false claims about its job placement rates and graduates’ earnings. The President issued a statement defending her decision to stay on the board, citing that “I am using personal time for these activities and have fully complied with all Arizona Board of Regents (ABOR) policies. Just as faculty consult, university administrators serve on outside boards. This is true in Arizona, as well.” (Barchfield, 2016). The event also drew criticism to the Arizona Board of Regents, which oversees the state’s university system. The President was considered by its Board of Regents to have complied with ABOR policies, as a disclosure statement about the appointment was filed (Wexler, 2016). However, as articulated in one article, “the fact that a university president does not have to secure permission from the regents before taking a paid position at another university is a loophole that the regents need to close” (Arizona Daily Star, 2016). In a separate but related matter, the Chancellor of UC Davis signed on with DeVry on the same day as the President of the University of Arizona, but quit the board within days. According to Inside Higher Education (Wexler, 2016), the difference between their responses lies in the governance structure of their respective institutions. Under the UC system, presidents are required to go through approval processes to serve on external boards. Recently, the UC Regents introduced a new policy which limits top administrators to two outside paid jobs and adds another layer of approval to ensure such positions

do not pose a conflict of interest or a “reputational risk” to the university system (Lambert & Stanton, 2016).

“Battleground” for Societal Concerns

As well as societal expectations of university leadership, a university campus can become a “battleground” where concerns and issues simmering in societies can surface. With faculty and students as members of society, they will have their own views and concerns, with some expecting their university to take a stance or introduce corresponding policies. In the US, race relations are a highly sensitive issue, which has been much debated across universities in recent years. For example, at the University of Missouri, students initially joined demonstrators over the police shooting of an unarmed black man in Ferguson, Missouri. According to the *Washington Post* (Izadi, 2015), in the light of the unrest in Ferguson, student groups lamented the university’s lack of official response to racial tensions on campus. Following weeks of student protests and the threat of a football team boycott, the University’s President resigned “amid complaints that he had done little to address racism and other incidents on campus” (Svrluga, 2015). The incident at the University of Missouri is not isolated, as universities campuses in the US increasingly become common venues for debates about race. At the University of Kansas, the administration called a town hall meeting to give students and faculty a chance “to be heard” before concerns about race on campus could grow (Hartocollis & Bidgood, 2015). Similarly, in Hong Kong, where we operate under “One Country, Two Systems”, there are a lot of sensitivities and debates surrounding the relationship between the Hong Kong Government and the Mainland Government, and the interpretation of the Basic Law of the Hong Kong Special Administrative Region, which stipulates the basic governance framework for Hong Kong. University presidents in Hong Kong are often asked by their students, alumni and members of the community to express their views, and there have been student demonstrations across universities in Hong Kong.

While university campuses have historically been a place where societal concerns and new ideas are brought forward, what makes it more challenging for university leadership today is that universities are engaging with a much wider variety of stakeholders in an era of heightened transparency. Transparency means more than simply making information accessible – it inculcates a shared value that information should be available and disclosed in a timely manner. However, there are implications when information is disclosed prematurely as it can sometimes influence judgement in decision-making. The power of social media means that protests can quickly be mobilized, so what happens in one university can have the potential to escalate to

another. So university leaderships are challenged not only to be accountable when information, either accurate or misleading, is widely distributed, but also expected to respond to events and activities in a manner which meets societal expectations that are far from homogeneous. Considering these circumstances, any university leadership will have to assess the risk that universities are willing to take to support innovation and safeguard academic freedom, and the implications if they become risk-adverse.

UNIVERSITY AND GOVERNMENT

The relationship between university and government is complex. With almost all universities receiving some form of government funding, public and private universities are expected to be publicly accountable, in terms of ensuring money is appropriately spent, and that learning and knowledge are being advanced. At the same time, universities need to safeguard institutional autonomy, as this supports academic freedom. As articulated in the Times Higher Education (Andrews, 2015), “Institutional autonomy is vital. It supports academic freedom and is its necessary corollary: without it, higher education cannot be self-governed, and if they are not, the danger is that external interference will ultimately limit academic freedom.” This section will explore the relationship between university and government, and outline examples where the pivotal balance between public accountability and institutional autonomy can be tipped.

Demonstrating Public Accountability

First, we need to look at how universities are funded in different countries. In the US, state funding goes primarily to public institutions, while federal funding is generally awarded through student aid for students at public, private and for-profit colleges, and research grants. Indeed, US federal funding accounts for a significant portion of research funding across many public and private universities. So even private universities will need to demonstrate that government funding is appropriately spent. Recently, a tweet by the US President following a protest (which led the school to cancel the event) against the visit from a right-wing commentator to UC Berkeley, read “does not allow free speech and practices violence on innocent people with a different point of view. No Federal Funds” (Nasiripour, 2017). While the US President does not have the unilateral authority to execute this, as Congress would have to pass a law altering the rules governing the provision of federal funds to college and universities, this nonetheless set off discussions about the role of government funding and institutional autonomy.

In Hong Kong, the University Grant Committee (UGC) serves as a buffer between the Government and higher-education institutions. The UGC operates on the premise that its duty is to protect academic freedom and the institutional autonomy of the institutions, but, as publicly-funded organizations, universities must be responsible and accountable to the public. The UGC achieves this through its funding allocation, which comprises recurrent grants and capital grants. Recurrent grants are disbursed to universities on a triennial basis, to tie in with the academic planning cycle, in the form of a block grant to provide universities with flexibility in internal deployment. By receiving block grants, this represents “an important bulwark of institutional autonomy so that the universities maintain an arm’s-length relationship with the Government over operational matters, including most academic affairs”. (Newby, 2015, p. 24).

UK universities are expected to demonstrate that public money has been spent appropriately, with an officer of the university (usually the vice-chancellor) as the “accountable officer” for this expenditure. Each year, both the vice-chancellor and the chair of the governing body formally sign off the university’s financial returns through an annual accounting procedure. Through this accountability framework, it gives assurance that public finance has been appropriately spent. Being publicly accountable encompasses also whether the money spent is delivering values in learning and knowledge through teaching and research. Unlike business entities, measuring the performance of universities is far from straightforward, as Albert Einstein says, “not everything that counts can be counted, and not everything that can be counted counts”. There is also a danger in setting up inaccurate key performance indicators which only measure things that are measurable rather than measure the things that matter.

In Hong Kong, a recent review, commissioned by the Hong Kong Government Education Bureau and the UGC, and conducted by Sir Howard Newby, examined the governance of UGC-funded institutions. Fundamentally, the report pointed that good governance helps “to guarantee the autonomy of universities by sustaining and nourishing public confidence” in universities (Newby, 2015, p. 3). The Report outlined six recommendations to further strengthen university governance. First, each institution should identify board/council candidates against a skill template individually. Once selected, the board/council members should receive training and professional development, to ensure that they are familiar with the internal workings of the university, the policy context in which the university operates and the global pressures universities are increasingly subject to. Second, the establishment of a written accountability framework in which the vice chancellor or president and the council chairmen report annually to the government. Third, for each university to draw up a set of key performance indicators which allows its

board/council to assess the progress towards the priorities agreed in the strategic plan. Fourth, for each board/council to draw up a risk register which will be reviewed annually. Fifth, for each board/council to publish a scheme of delegation, which set out the sub-structure of its committees. The final recommendation suggested a review of university governance, ideally every five years. If the six recommendations are implemented, it would mean that university boards/councils and the university administration will work more closely together to further enhance accountability to safeguard the autonomy of universities.

In the same report, Newby (2015) cited the development of codes of conduct in the UK, which seeks to establish the principles of university governance, has helped to ensure that university autonomy is nurtured and sustained based on clear lines of accountability. In Singapore, the accountability framework for university is not only widely accepted but continues to sustain the trust of key stakeholders, especially the government, in the good governance and excellent senior management of the university sector.

Government Influence

Government policies can have direct or indirect implications on higher-education institutions. For example, a new bill in Missouri seeks to end tenure for all new faculty hires starting in 2018 and requires more student access to information about the job market for majors (Flaherty, 2017). Faculty expressed concerns as tenure helps to protect academic freedom and encourage cutting-edge research, and helps faculty engage in shared governance, which is important to the long-term success of any institution. There are concerns that universities in that state will become less competitive in hiring top faculty candidates.

Government policies which are not education-specific can pose challenges to higher education. Yale and Stanford are among 17 elite universities which launched a legal challenge to President Trump's ban on refugees and citizens of Muslim-majority nations entering the US. Harvard's President voiced apprehension that a climate hostile to immigrants might detract from Harvard's ability to attract international faculty (Parker, 2017). With Brexit, UK universities expressed their disappointment and concerns. As outlined in the Universities UK statement on the triggering of Article 50 (Universities UK, 2017), "with more than 125,000 students from other EU countries studying at UK universities and 17% of academic staff from EU countries, and UK as the major beneficiary of the EU's Horizon 2020 research, the future relationship with the EU has clear implications for universities in the UK."

Third, many governments around the world appoint council members or have officials serve on their board/council. This is the case in Hong Kong where the Chief Executive of the Hong Kong Special Administrative Region

is the Chancellor (head of university) to all UGC-funded institutions. In Singapore, the Ministry of Education's Permanent Secretaries are members of the Board of Trustees for Nanyang Technology University and the National University of Singapore. In Denmark, in March 2017, the Danish Minister of Higher Education and Science put forward a new legislative proposal on the governance of higher-education institutions, giving government the final choice on the appointment of heads of university boards (Myklebust, 2017). This demonstrates that there really is no universally accepted form of university governance, and this is an evolving process.

These events highlight how intertwined government affairs and universities are at times. Changing governments and government policies can push universities into unknown territory which requires strong university leadership to navigate. For governments to trust that the higher-education sector can be self-governing, universities are required to provide supporting evidence to demonstrate that their actions and activities are accountable. The stakes are high if universities fail to achieve this, as institutional autonomy can be taken away easily if trust is broken.

UNIVERSITY ADMINISTRATION AND BOARD/COUNCIL

To understand the relationship between university administration and board/council, we must examine their distinct roles and responsibilities. Like a corporate board, the university board/council, which usually consists of non-executive and un-compensated members, provides financial and strategic oversight and risk management, and not direct management, which is the role of the university administration. In many university systems, there is some form of shared governance with the senior administration, as well as faculty, staff and students, which helps to safeguard academic freedom.

Clear Roles and Responsibilities?

However, recent events suggest that the roles and responsibilities between the university administration and board/council might not be so clearly defined in practice, as local and international politics can affect university governance. For example, at the University of Illinois, a faculty recruit had his job offer rescinded after his social media posts about Israeli military action in Gaza (Cohen, 2014a, 2014b). The Chancellor maintained the board had never voted to approve his hiring, and argued that his comments on Twitter raised questions about his ability to interact with students and to embrace campus values of civility (Jaschik, 2015). The University of Illinois Board backed the Chancellor's decision and voted not to hire him. Questions were raised over whether the University violated the recruit's right to free speech and

academic freedom. A report by a national group of professors says the University of Illinois “violated the principles of academic freedom when it withdrew an offer of a tenured faculty appointment” and the university administration and the board of trustees violated the faculty’s “due process rights as a faculty member, acted outside the widely acceptable standard of academic governance and created an uncertain climate for academic freedom on campus” (O’Connell, 2015).

One-Size-Fits-All?

Given the important role that the board/council plays, there are great variations. In the US, the size of boards and method of appointment vary significantly with nine at the University of Colorado and 55 at the University of Chicago. In England, the Further and Higher Education Act 1992 requires post-1992 universities to be governed by a board of no fewer than 12 and not more than 24 members. Oxford University and Cambridge University are excluded from this legislation, with Oxford Congregation having more than 4,500 members, comprising academic staff, heads and members of governing bodies of colleges, senior research and administrative staff. In Hong Kong, the size of a council at the Chinese University of Hong Kong (CUHK) is nearly twice the size of the Hong Kong University of Science and Technology (HKUST) and the University of Hong Kong (HKU). The composition of boards/councils also differs slightly. There are slightly more student representatives and two members (who are not students or staff) elected by the Court at HKU. At CUHK, the deans of each faculty and graduate school are members of their Council, while at HKUST no more than two deans are appointed as council members, and they are by rotation among the deans of faculties, schools and the dean of undergraduate education.

While there is no optimum number of board/council members, it is the proportionality and composition that are key, as the right mix will foster constructive and challenging working relationships between the university board/council and university administration, which is conducive to good governance. As mentioned earlier, it is desirable to have a set of board/council members with the right collective “skill sets”. As leaders in higher education face greater challenges than ever before in a highly competitive market, the ability of leaders to respond to change is critical. Research by the Leadership Foundation for Higher Education sampled views from more than 60 governors in UK universities, and found 89% of governors felt that change in their institution is managed well, compared with less than 45% of staff. When asked about challenges facing leaders in higher education, only 9% of governors identified increasing diversity as a means to improve leadership, compared with 51% of higher education staff who thought that their institution’s

governing body did not take diversity and equality into account in appointments (Legrand, 2016). While the sample size of the survey cannot claim to be wholly representative, the research highlights the need to “develop more effective ways to support governors in staying in touch with issues and ensure that they are making the best possible impact”.

The relationship between the board/council and senior administrators is crucial. Both parties need to fully understand each other’s responsibilities and roles. Effective communication also remains vastly important. Finally, checks and balances in the governance structure will also help to ensure that personalities and politics do not cloud decisions or impact the university’s operation and mission.

UNIVERSITY AND STUDENTS, FACULTY AND ALUMNI

Students, faculty and alumni are a university’s most important stakeholders. Universities are underpinned by the success of their students, faculty and alumni, and any decisions or actions that a university makes will have the most direct impacts on them. It is therefore unsurprising that students, faculty and alumni are often vocal about their views and concerns, and there are expectations for university leaderships to consult them on key decisions. Indeed, in many universities, there are seats on board/council reserved for their representatives. Universities are also expected to reflect the views of their students, faculty and alumni which can be challenging as their views are far from homogeneous.

Managing Stakeholder Expectations

In recent years, the issue of academic freedom has been debated across campuses around the world. Universities face the challenge of ensuring academic freedom while at the same time meeting their duty to provide an inclusive learning environment. At Middlebury College, in Vermont in the U.S., students chanted and shouted at a controversial writer, preventing him from giving a public lecture at the college. The speaker was eventually moved to another location on campus where a discussion with a faculty was livestreamed back to the original lecture site. College officials explained the decision to allow the event to take place as being about free speech, but an open letter signed by Middlebury alumni says that “This is not an issue of freedom of speech. We think it is necessary to allow a diverse range of perspectives to be voiced at Middlebury...However, in this case we find the principle does not apply, due to not only the nature, but also the quality, of Dr Murray’s scholarship. He paints arguments for the biological and intellectual superiority of white men with a thin veneer of quantitative rhetoric and academic

authority.” (Jaschik, 2017). As universities, we are indeed challenged to protect values which we think define our institution, but can at times contradict the views of some students, faculty and alumni.

There are also ongoing debates over how institutions should balance their historic roots with the need to appeal to a modern and diverse range of students. In November 2015, a protest led by a student group demanded that Princeton disassociate itself from former US president Woodrow Wilson due to his “racist legacy” (Lawler, 2015). Similarly, Yale changed the name of its Calhoun College, which honors a 19th century alumnus and former US Vice President who is now viewed as an active proponent of slavery when many condemned it (Washington Post, 2017). Similar debates took place in Oxford, with students arguing that the statue of British mining magnate and African colonizer Cecil Rhodes, who is now seen as racist, should be taken down as this is considered incompatible with the “inclusive culture” at the university (BBC News, 2016).

Managing Stakeholder Relationships

As well as meeting expectations of our students, faculty and alumni, our relationships with these stakeholder groups can be scrutinized. For example, as university leaders, we need to investigate and take actions to handle faculty, students and staff misconduct, as any universities and employers are required to. The sexual harassment case of a faculty at UC Berkeley was under much scrutiny in the media and among the UC Berkeley community. After the resignation of one of their deans, who was alleged to have committed sexual harassment, UC Berkeley issued a statement which read “the initial decision not to remove the dean from his position is the subject of legitimate criticism. We can and must do better as a campus administration. We must move in the direction of stronger sanctions, and in doing this we want and need the broad input of the campus community. We will act quickly to generate action that will produce lasting change in our culture and practices.” (Berkeley News, 2016).

As well as handling faculty, student and staff misconduct, there are occasions when our practice or treatment of stakeholders falls short of expectations, and there are indeed consequences. Recently, the University of Iowa agreed to pay US\$6.5 million to settle discrimination lawsuits by former employees, as jurors found that school official discriminated against an employee based on her gender and sexual orientation (Foley, 2017). The case in point is that our response to incidents like this puts our leadership skills to the test as we are challenged to act appropriately and in a timely manner, and the robustness of the governance structure will undoubtedly be tested.

The examples highlight incidents and events university leadership must manage effectively. University leaders are increasingly expected to express

their views and take a stance on issues that students, faculty and alumni consider important. Secondly, there are expectations that those views should represent students, faculty and alumni, even though their views might not be homogeneous. It remains vastly important that students, faculty and alumni have channels through which they can voice their concerns and ideas, and for universities to consult them on key issues, but, at the same time, we are required to safeguard our values, namely, academic freedom, and ensure that our actions, along with our faculty and students, comply with laws and regulations that underpin the higher-education sector and society.

CONCLUSION

The job of a university president can be the best of jobs and also the worst of jobs. The president plays a pivotal role in balancing stakeholder interests, while ensuring that these align with the university's long-term development.

The events outlined highlight the complex relationships between universities and key stakeholder groups, and their implications for university governance. With universities engaging with a wider range of stakeholders, there are different and sometimes conflicting expectations in the role of universities in society or how university leadership should respond to certain events. Along with our stakeholders, universities today are required to navigate at a time of uncertainties and into unknown territories, including political events at the national level, as well as major economical and societal changes.

University governance is increasingly tested as we operate in a more complex and competitive environment. Yet, there are often different interpretations of what constitutes good governance, and these differences do not necessarily mean that one is more superior, as there is no foolproof governance system, but those that can successfully minimize the likelihood of human vagaries and extreme acts or decisions by implementing checks and balances in the system. Also, there can sometimes be confusion in what constitutes governance and management, as well as governance and accountability. At what point does governance become interference into academic freedom and how much is too much accountability so that it hinders innovation?

There is a need to balance accountability and institutional autonomy so that universities are accountable for their actions, while safeguarding academic freedom. The key will always be to achieve the right balance between different variables, namely accountability and institutional autonomy; however politics, personalities and societal expectations will have the potential to push the balance to one side or the other. Indeed, even a more mature governance system can be impacted by its leadership or external political environment such as Brexit and the Trump Administration.

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