Re-Balancing Modern Concepts of University Governance

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Abstract

The paper considers the corporate-dominated and the academic-dominated forms of university governance, and the extent to which the position of these models has fluctuated over time. It argues that it is now time to move back to the concept of ‘shared governance’, but that this requires some reform of academic decision-making and that the corporate and the academic sides need to create machinery to realise effectively their respective contributions to university governance.

It is a characteristic of the modern period that when we talk about university governance we are tacitly referring to university governing bodies, how they function, the relationship between governance and management (or more specifically between the governing body and the executive) and their responsibility for determining university strategy. Bargh, Scott and Smith’s Governing Universities: Changing the Culture (1996), which is devoted to a study of governing bodies in the modern university, represents one illustration of this. A quarter of a century earlier, when Moodie and Eustace wrote Power and Authority in British Universities (1974), scholars were much more likely to relate governance issues to the roles of senate and departments; although Moodie and Eustace sought to emphasise the historic and legal roles of governing bodies they concluded that while the academic community was not particularly well equipped to govern universities, the nature of the central activities of a university and the conditions necessary to a university to flourish required that:

The supreme authority, providing that it is exercised in ways responsible to others, must therefore continue to rest with the academics, for no one else seems sufficiently qualified to regulate the public affairs of scholars.

There is a huge gap between these two perceptions of what university
governance comprises, what should be regarded as its main principles and what balance should be struck between what could be described as the corporate model of governance by governing bodies and the consensual (academic) style that was the norm in universities (if not higher education as a whole) in the 1970s. The corporate model is best defined as one where the institution’s governing body represents the dominant locus of power and decision-making on a de facto as well as a de jure basis. (The corporate model is usually associated with lay dominance, or the size of the lay majority on the membership, but need not be). I intend to argue that the corporate model is no more desirable or effective in modern conditions than the consensual model implied by academic dominance of the governing process and that we should be looking much more closely at what our US colleagues call ‘shared governance’. In the US, all university governing bodies (like the post-1992 Higher Education Corporations (HECs) in the UK) have unicameral powers, but in the major universities they choose to work closely with the academic community, rather than exercising their de jure right to full de facto control over the university.

The balance between corporate-dominated and academic-dominated university governance has fluctuated considerably over time. If we leave aside Oxbridge, which has retained academic dominance in its governance for largely historical reasons, economic factors and external political attitudes have been much more influential in determining this balance than any proven evidence of the superior effectiveness of one model rather than another. Moodie and Eustace show that in the nineteenth century ‘the internal powers of court and council were virtually unqualified’; but this was very much influenced by the fact that the universities and colleges referred to, lacking any regular source of government funding, were almost entirely dependent on lay governors to generate the funding on which teaching and research (including academic salaries) depended. At Birmingham, for example, when it achieved full university status in 1901, the Court of Governors constituted ‘the supreme governing body’: its membership, according to Ives et al., was ‘intended to demonstrate ownership of the new University by the City and the Midlands region and to be a means to mobilise interest and support over the whole area’ (Ives, Drummond and Schwarz, 2000).

By the 1930s the balance was beginning to change, reflecting the influence of the University Grants Committee (UGC). The UGC went so far as to recommend against granting full university status to institutions which were too subordinate to lay, i.e. corporate, control (Shinn,
1986). But the real changes were to occur in the immediate post-war period, by which time the UGC was providing nearly 95 per cent of the recurrent budget of most universities. In a situation where decisions about institutions’ funding were mostly determined by the UGC on quasi-academic criteria, the academic community inevitably came to exercise a much more influential role in governance. In addition, the dependence on the fund raising role of lay governors was almost entirely removed; a governing body’s task was much more to administer funds made available by the state. The position was reinforced by the more radical mood of the 1960s, which encouraged greater participation in university governance at all levels by non-professorial academic staff and by students. The model statutes prepared as a guide for new universities and former colleges of advanced technology gave senates substantial rights to be consulted by governing bodies and encouraged the presumption not only that they were ‘supreme’ in all matters which related to the academic functions of the university but that the interpretation of what constituted the academic functions could be widened to include many elements over which governing bodies had traditionally exercised unchallenged control. This dispensation did not, of course, apply to the polytechnics, which, designed in Crosland’s words to be responsive to ‘natural need’, were placed firmly under their local authorities as the democratically elected interpreters of those needs.

The Thatcher Revolution, the imposition of cuts on university budgets, themselves an indication of Government dissatisfaction with the way universities were run, and the assertion of a more market-orientated system of higher education were reflected in the Jarratt Report (CVCP, 1985), which suggested that:

The relative decline in the influence exercised by Councils has increased the potential for Senate to resist change and to exercise a national conservatism. Vice-Chancellors and university administrators have in the past been trained to believe that harmony between the two bodies should have a very high priority in a university. It may well be, however, that a degree of tension between them is necessary in the circumstances now facing universities, and can be creative and beneficial in the long term. That can only happen if Councils assert themselves.

Jarratt went on to portray the role of senates as simply to be ‘the main forum for generating an academic view and giving advice on broad issues to Council’. Undoubtedly these phrases influenced the Government’s views on governance issues when it released polytechnics from the control of the local authorities in 1988 and made them universities in 1992. Whereas in 1964 the colleges of advanced technology
replaced their corporate-dominated constitutions with senates and councils constituted on the same model as, for example, Sussex and York, neither in 1988 – when polytechnics were made independent of Local Education Authorities (LEA) control – nor in 1992 – when they became autonomous universities – was there any suggestion that these institutions, or indeed the colleges of higher education, were to be permitted to move in this direction.

In fact, there is a great deal of evidence that the Government was strongly in favour of reinforcing the position of governing bodies in the pre-1992 universities as well. The first evidence was in 1986 when legislation laid the responsibility for protection of freedom of speech within a university on its governing body (Education Act No.2, 1986, Section 43). In 1988 legislation gave governing bodies extended powers for the dismissal of academic staff (Education Reform Act, 1988) and in 1994 legislation imposed detailed responsibilities on governing bodies for supervising student unions, which in most pre-1992 universities had been exercised by senates (Education Act 1994, Part II, Students Unions). The introduction of the Financial Memorandum, which defined the fiduciary relationship between each university and its Funding Council, explicitly placed responsibilities on governing bodies for compliance with requirements for ensuring that an institution had a sound system of internal financial management and control, for delivering value for money from public funds, for ensuring solvency, for approving financial and strategic plans, etc. as a condition for receiving public funding. Increasingly, Government has seen the governing body as the guardian of propriety in the management of university affairs and, while the responsibilities imposed do not extend the general responsibilities implied in universities' statutes or articles, the identification of governing bodies with explicit responsibilities in this way has inevitably affected the behaviour of lay governors (as it was intended to do) and the relationship between governing bodies and the institution as a whole.

The high tide of the movement to reinforce the powers of governing bodies was apparent in the discussions and final Report of the Dearing Committee. Implicit in Dearing's thinking was that Higher Education Institutions (HEIs) were going to undergo, over the next 20 years, 'a degree of change . . . more profound even than that experienced during the recent expansion'; and the Report cited greater cost effectiveness, greater emphasis on learning and teaching quality, being better attuned to the external environment and extending provision to new student populations. They therefore needed governance structures (by which,
the text makes clear, it meant a governing body) ‘to steer the institution towards its strategic direction’. (This top-down model of change is a far cry from Burton Clark’s description of the bottom-heavy institution where changes in institutional shape and structure result from changes in academic disciplines, in programmes and in developments in research at the departmental level (Clark, 1983).) The Report recommended a number of steps to improve university governance. It thought that governing bodies in pre-1992 universities were too large, and that a ceiling of 25 members should be adopted to ensure effective decision-making (this was the maximum permitted to the post-1992 universities); that as part of realising ‘a new and stronger focus within institutions’ all governing bodies should adopt ‘a set of defined, qualitative, quantitative, internal and external indicators’ to enable them to compare the performance of their own institution with others; and that, as a condition of public funding, they should produce an annual report which should review the institution’s performance and its record of compliance with a code of governance practice. It also recommended that governing bodies should carry out effectiveness reviews on their own performance (Dearing Report, 1997).

Most of the burden of responding to this agenda fell on the Committee of University Chairmen (CUC). In 1994 the CUC had taken the initiative to issue advice on governance issues arising out of improprieties and breakdowns in governance at Huddersfield and Portsmouth Universities. The CUC did not respond favourably to the prescriptive tone of the Dearing recommendations, but the result of their efforts has been the production of a Guide on Governance (CUC 1995, 1998 and 2000), a newsletter and training programmes for all members of governing bodies, and a much greater emphasis on the adoption of a systematic approach to the formal side of university governance. Following CUC recommendations, the majority of pre-1992 universities, where the recommendations were relevant, have sought Privy Council approval to reduce the size of their governing bodies, although to an average of between 30 and 34 rather than the 25 recommended by Dearing. The great majority of universities have carried out effectiveness reviews according to a CUC template (CUC, 2001).

These changes have certainly made governing bodies more efficient and have imposed procedures which make improprieties less likely, but the process has confirmed that governance is synonymous with how the governing body conducts its business; little attention has been paid to the roles of senates/academic boards. In theory, the process might have led to the much more dominant body that Jarratt and Dearing seemed
to have been aiming for; but, in practice, this has not been the case. Indeed, one result of the governing body effectiveness reviews has been a growing interest in some universities in improving links with senates/academic boards and in defining more precisely the relationship between governing bodies and the executive (CUC, 2000).

There are a number of reasons for arguing that it is timely to consider moving back to a more evenly balanced approach to governance – the ‘shared governance’ concept referred to at the beginning of this paper. The first derives from the current pattern of funding universities. Although we have a much more market-orientated system of higher education, the market remains primarily dominated by factors which can only be exploited by the academic community. In so far as university budgets are affected by success in the Research Assessment Exercise (RAE) or in maintaining a secure student number base, this is a reflection of academic performance. Although on average 40 per cent of university income now comes from non-Funding Council sources, we have not moved back to the position where institutions depend on members of their governing bodies to generate financial support. It would not occur to Birmingham University now, as it did a century ago, to look specifically for members of the governing body who could themselves mobilise financial support for the institution. Capital contributions for buildings are now much more likely to come from public rather than private sector sources or out of earned income or by borrowing in the financial markets. The additional resources necessary to supplement recurrent grants are generated from student fees, research contracts, short courses and other aspects of academic entrepreneurialism. There is little to suggest that governing bodies can offer much to influence performance in these areas other than encouragement (and occasionally discouragement).

The second reason is that, where improprieties and breakdowns have occurred, they have centred on governing bodies and the executive (e.g., Huddersfield, Portsmouth, Southampton Institute, Glasgow Caledonian, Swansea Institute); and not on the academic community. Indeed, in nearly all such cases, beginning with University College, Cardiff in 1987, and continuing through Huddersfield, Portsmouth and the Southampton Institute, attention was drawn to the difficulties by concern in the academic community. Jarratt and others may have been right to see the academic community as a force for slowing down decision-making and being indecisive but it cannot stand accused of the kind of abuses that have attracted the attention of the National Audit Office.

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The third reason is that, although Jarratt called for the vice-chancellor to be regarded as a chief executive and much of the current rhetoric about new managerialism in higher education is devoted to the activities of the ‘executive’ or the ‘administration’, there is little hard evidence that new managerialism in the pejorative terms in which it is usually referred to has been particularly successful in delivering academic success. A university, which was described as having:

a compact top structure with a small Board of Governors working closely with a Chief Executive... who really is the Chief Executive and has considerable delegated powers; [and a] Chief Executive [who] runs the institution with the Senior Executive including four Pro-Vice-Chancellors, two Associate Vice-Chancellors, the Director of Finance, the Academic Registrar and the Director of Personnel. (North Report, 1997)

has recently had to give up a number of subordinate campuses and finished in 67th place in the 2001 RAE league table (THES, 2001) in spite of spending proportionally more on central managerial staffing than almost any other university. Indeed, in a recent Universities UK/SRHE Seminar on ‘New managerialism and the management of UK universities’ Rosemary Deem and her colleagues were able to demonstrate from their research the reluctance of ‘new managers’ to behave as executives in the corporate sense and their continued commitment to traditional values (UUK/SRHE, 2001). Other research suggests that the role is more political than managerial (Bargh, Bocock, Scott and Smith, 2000). Those universities which generally occupy the top ten positions in the league tables seem to emphasise collegiality in their management styles rather than any form of executive dominance. Modern business literature does not encourage the view that personal leadership is as important for building successful companies as other factors, such as organisational culture and orientation (Collins and Porras, 1994), environmental sensitivity, cohesion and sense of identity (de Geus, 1997), motivation of staff (Ghoshal and Bartlett, 1999) and organisational architecture and the architecture of relationships within the firm and between the firm and its customers (Kay, 1996). Indeed all these studies emphasise in different ways the importance of ‘organisational learning’, the ability of institutions to react to change, and to changes in the external environment, not because they are directed to by top management but because their internal structures are sufficiently open and incentivised to be mediated by contact with the external environment at all levels of the organisation. As Bennis writes about the business corporations of the future, ‘You cannot release the brain power of any organisation by using whips and chains. You get the best out of...
people by empowering them, by supporting them, by getting out of their way’ (Bennis, 1994).

Concerns about the strains that the concept of ‘shared governance’ is under in the US can be illustrated by reactions to the Association of Governing Boards’ (AGB) report *Renewing the Academic Presidency: Stronger Leadership for Tougher Times* (1996), which from a European perspective could be described as a liberal response to the pressures that universities are under on either side of the Atlantic. The report fully accepts the ‘tradition of shared governance’ (which goes far beyond what Jarratt might have thought desirable), but urges that a university president ‘must resist academia’s insatiable appetite for the kind of excessive consultation that can bring an institution to a standstill’. It also, however, is critical of attempts to politicise the boards of trustees of some public universities as a result of state governors or legislations making appointments to the boards of individuals who have little expertise or commitment to higher education. Nevertheless, the report has awakened considerable alarm in the American Association of University Professors (AAUP), a notably restrained organisation whose Bulletin, *Academe*, has devoted two special issues to the topic (1997 and 2001).

How we view the role of the academic community in university governance raises interesting questions of comparison with other professional communities, particularly those of lawyers and accountants in the corporate governance of law firms and firms of accountants. These firms were traditionally, and for the most part remain, partnerships where each partner, like an academic in relation to teaching and research, has personal working autonomy because s/he has sole responsibility for dealing with a portfolio of clients. Historically, firms were quite small and corporate decisions about their management were taken at partners’ meetings chaired by an elected managing partner supported by a senior partner. As firms have grown, and particularly after mergers, these partners’ meetings are no longer practicable because of the sheer size of some partnerships (Clifford Chance is reported to have nearly 5,000 lawyers in 19 countries), so that fundamental questions have had to be faced about leadership and management. In many cases partners have voted to bring in managers from outside the profession to take charge, in collaboration with subsets of partners, and have voted to float the firm and thereby take on a full corporate structure. The point to note particularly is that in these cases, professionals whose reaction to corporate management is much like academics’, have found it possible within the partnership framework to reach decisions about mergers, take-overs and restructuring without the help of boards of lay governors.
at all (*Financial Times*, 2002). Clifford Chance, with 650 partners and a turnover of over £1bn, takes its most important decisions by postal ballot amongst its partners, perhaps balloting them 10 times a year. One can press the analogy too far, but it is worth remembering that Oxbridge colleges are self-governing in an almost exactly parallel way to legal or accountancy partnerships and have business decisions to take over property and investments that are at least as critical to their survival as the decision-making which occurs in partners’ meetings.

If university governance is to be rebalanced what are the necessary steps? One must be that governing bodies encourage dialogue between themselves and the academic community and refer questions to the senate/academic board for a view, rather than accepting automatically the chief executive’s interpretation of the academic community’s views. A rider to this must be that the senate/academic board must be able to return its own view without undue delay. If this is to be achieved, the kind of reforms that governing bodies have introduced to make themselves more effective need to be paralleled in senates and academic boards: procedures require updating, questions of the size of decision-making bodies must be addressed, interests need to be declared and agendas need to be structured to enable strategic items to be properly considered. It is not good enough for universities to behave as ‘organised anarchies’ if we want to make sure that the academic community plays its full part in university governance.

If shared governance is to be made to work, joint committees, joint consultation on specific topics and joint formulations of strategy must be some of the mechanisms that will bridge the gap between lay governors and members of the academic community and bring out the real contribution that lay membership brings to university governance, namely, the capacity to see university problems in a wider context and to bring experience in other walks of life to bear on them. Governing bodies should not be remote from the internal academic discourse, nor should they be encouraged to impose decisions, the consequences of which they may not fully understand. At the same time, the academic community needs to recognise the critical importance of the lay governors’ contribution to university governance, and vice-chancellors need to recognise that, if they cannot take their academic colleagues with them in difficult decisions, no amount of firm decision-making by the governing body will ensure that the decisions are implemented satisfactorily. Institutions work best when governance is seen as a partnership between the corporate and the collegial approaches, and where a sense of common purpose informs the balance of the relationship.
References


