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Academic Matters

OCUFA'S JOURNAL OF HIGHER EDUCATION
LA REVUE D'ENSEIGNEMENT SUPÉRIEUR D'UAPUO

Higher Education and Leviathan

Sue Herbert
Reviewing Ontario's university funding formula

Simon Marginson
Higher education and growing inequality

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Fair access: Strikes the right balance on education and copyright


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Academic Matters

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LA REVUE D'ENSEIGNEMENT SUPÉRIEUR D'UAPUO

Academic Matters is published two times a year by OCUFA, and is received by 17,000 professors, academic librarians and others interested in higher education issues across Canada. The journal explores issues of relevance to higher education in Ontario, other provinces in Canada, and globally. It is intended to be a forum for thoughtful and thought-provoking, original and engaging discussion of current trends in postsecondary education and consideration of academe's future direction.

Readers are encouraged to contribute their views, ideas and talents. Letters to the editor (maximum 250 words) are welcome and may be edited for length. To provide an article or artwork for Academic Matters, please send your query to Editor-in-Chief Graeme Stewart at editor@academicmatters.ca.

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OCUFA
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Reviewing Ontario's university funding formula

Sue Herbert

The rationale for reviewing and reforming the way we fund universities.

Les raisons pour l'étude et la réforme de la manière dont sont financées les universités.

I hesitated when the Ontario Confederation of University Faculty Associations (OCUFA) asked if I would write an article on the University Funding Model Review for *Academic Matters*. The hesitation had to do with timing. I knew there would be a gap between submitting the article and the release of our report. There was also a strong likelihood that the timing of that gap would be a crucial one in the life of the project. However, I put my hesitations aside and decided to write about the consultation and the progress we've made so far.

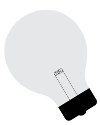
Our consultation on the University Funding Model ended on September 1, 2015. After five months of broad-based consultation, we are working on a public report that will include what we heard, what we have taken from the consultation, and our thoughts about designing a new funding model. I am unable to tell you what those results are because we haven't got to that stage at the time of this writing. By the time you read this, we should be nearly there.* Therefore, I'm limited to writing about the consultation process itself and what we have heard so far. If you're looking for what the consultation's recommendations will be, you won't find them here.

In November of 2013 the government released its Differentiation Policy Framework. In it, the government referred to "a careful balancing act between government stewardship and institutional leadership, and a strengthening of transparency and accountability between the government, institutions, and the public." This balancing act is needed for institutions to not only maintain and improve their quality, but to do so in a sustainable and effective manner. As part of their commitment, through the joint Strategic Mandate Agreements (SMAs), and as the next step in transforming the sector, the Ontario government's funding model review began in April 2015.

I was asked to lead the design of a consultation, set up a team to lead the consultation process, and report on its results. The Ministry of Training, Colleges and Universities (MTCU) released a background discussion document, which can be found on the consultation website (www.tcu.gov.on.ca/pepg/audiences/universities/uff/). This document contains 12 questions that guided the discussion at our May 6, 2016 all-day event, which was attended by about 175 participants, including OCUFA.

The government asked us to focus our attention on four principles: student experience, differentiation, sustainability, and transparency and accountability.

The purpose of the consultations is to solicit comments and views on a new distribution design for the $3.5 billion MTCU provides to Ontario's public universities. The current funding model is built on a total revenue structure that no longer exists. It is based almost entirely on enrolment and incenting enrolment growth. This mismatch between the formula and the current structure of the university system has resulted in many tweaks being made over the years, so much so that the formula has reached the point where it is no longer explainable or transparent. As we enter a decade of a declining 18-to-24-year-old population in all regions but the GTA, this is no longer a viable approach to funding our university system. We need to build a university funding model that is able to withstand demographic ebbs and flows, is sustainable, and is focused on students.



We developed an open, broad-based consultation approach. The design can be found on our website (www.tcu.gov.on.ca/pepg/audiences/universities/uff/about_consultation.html). We also identified key stakeholders that we wanted to meet with on an ongoing basis so that we could update them on the status of our consultation and to get their insight on what aspects should be considered as directions in the design of a formula. In addition to OCUFA, our key stakeholders include: Council of Ontario Universities (COU), Ontario Undergraduate Student Association (OUSA) and the Canadian Federation of Students—Ontario (CFS-O).

OCUFA's Executive Director, Mark Rosenfeld, and I first sat down informally in May 2015 so I could get his advice on early approaches. OCUFA did a lot of preparation for the consultation, which we found very useful. We were pleased to be invited to OCUFA's 146th Board of Directors meeting on May 9, 2015 and to be given a fair chunk of time on the agenda to make our presentation and answer questions. In support of our goal for this consultation to be an open and transparent process, OCUFA has been invited to and has attended all of our open briefings with other ministries.

We have also met with high school students, employer representatives, university leadership, student groups, and college representatives. As you might expect, there have been differences of opinion on the design concepts included in a funding allocation methodology. The government asked us to focus our attention on four principles: student experience, differentiation, sustainability, and transparency and accountability. And so, our consultation was organized around these four areas.

Our consultation revealed that across the system there are differing perspectives regarding the viability and advisability of outcomes-based funding; that there is anxiety about potential shifts in funding; and there are differing opinions about what the funding formula should emphasize. However, there are some consistent themes that can be shared at this preliminary stage:

• The need for information, data, and metrics that are transparent, accessible, and validated in order to better understand what we are funding and what we are achieving.

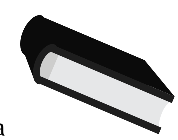
• A desire for an outcomes-based lens that is focused on student success and experience, particularly at the undergraduate level. Measuring learning outcomes came up quite often.

• The importance of developing and providing more experiential learning opportunities for undergraduate students.

• Support for increased differentiation as long as it is respectful of individual institutional strengths and missions. The SMAs were suggested as a vehicle for those discussions.

• Strong support for a model that is predictable, flexible and understandable.

While I have presented a number of consistent themes, I would like to add a few more words here on the need for information, data, and metrics. This is one area that warrants explicit focus as our ability to move forward to continually improve the system is deeply rooted in it. My third blog (www.tcu.gov.on.ca/pepg/audiences/universities/uff/meet_exec.html) focused primarily on data and some of the shortcomings that currently exist. It would be unfair to say that there is a dearth of accessible data on Ontario universities. The Council of Ontario Universities provides access to data through Common University Data Ontario (CUDO) and financial data from the Council of Ontario Finance Officers (COFO). However, this data is not easily accessible or coherent, and lacks pertinent information—information that is needed for students to make informed choices, and to move the system forward. I know OCUFA agrees with this perspective.



Our goal is to provide a report for public release in late 2015. This report will outline the results of the consultation and our advice to the system about moving forward on a new funding model. In the meantime, there is a lot more information on our website. I hope you will feel free to visit it. AM

Sue Herbert is the Executive Lead of the Ontario University Funding Model Review.

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* Editor's Note: The final report of the University Funding Model Review is now available. It can be accessed at www.tcu.gov.on.ca/pepg/audiences/universities/uff/.

OCUFA and the University Funding Model review

Judy Bates

OCUFA has taken a principled approach to its engagement with Ontario's review of the university funding formula.

L'OCUFA a pris une approche fondée sur des principes quant à son engagement à l'égard de l'étude sur la formule de financement pour les universités de l'Ontario.

The Ontario Confederation of University Faculty Associations (OCUFA) has been, and continues to be, an active participant in the Government of Ontario's review of the university funding formula. The funding model is absolutely foundational to the quality and sustainability of the province's universities. So, it was clear to professors and academic librarians from the outset that a sustained engagement with the process was necessary.

This engagement has taken many forms. Previous OCUFA President Kate Lawson made a presentation to a symposium on the funding formula in March of 2015. She and other OCUFA representatives also participated in the facilitated small-group discussions held throughout that event. In May of 2015, the Executive Lead of the review, Sue Herbert, was invited to OCUFA's spring Board of Directors meeting to introduce the Review, present some of her initial thinking, and to take questions. OCUFA also attended all of the "Open Briefings" organized by the Review, on topics including the current design of the funding formula, performance funding, and funding models from other sectors. While we did not always agree with the perspectives being presented, the briefings were a useful way to engage with some of the key ideas being considered by the Funding Formula Review team.

OCUFA also had a series of one-on-one meetings with Herbert, who also has an article in this issue of *Academic Matters*. At these meetings we were able to provide the project with perspective from professors and academic librarians on the funding formula and potential areas of reform.

From the beginning, OCUFA's work on the funding formula review has been shaped by a belief that any change to the existing model must support a high quality university system that meets the needs and aspirations of students, staff, and faculty. To achieve these goals, we articulated a series of principles that should guide the review process:

• **Adequate:** Public funding for universities must provide adequate resources to support a high quality and affordable higher education sector.

• **Committed to core activities:** A funding formula should protect and promote the two core activities of a university: excellent teaching and learning, and world-class research.

After careful consideration, OCUFA has rejected performance funding as inconsistent with the values and purpose of a public higher education system.

• **Student-centred:** Funding must be responsive to the number of students in the system and the programs in which those students are enrolled.

• **Supportive of good jobs:** Universities should receive adequate funding to support good jobs on their campuses. This means ensuring fair terms and conditions of employment for contract faculty and hiring sufficient numbers of tenure-stream faculty to maintain high academic standards and manageable workloads.

• **Stable and predictable:** Mechanisms should be put in place to ensure that funding is stable and predictable to facilitate long-term planning and to avoid extreme fluctuations in institutional revenue.

• **Equitable:** Funding should be allocated among institutions on a fair and equitable basis to protect against wide variations in quality across the system and to support student success at all universities. Any system that allocates or withholds funding on the basis of institutional performance or output measures will result in the creation of "winners" and "losers" and will penalize students at institutions that fail to reach their targets.

• **Transparent:** Any formula for allocating funding must be transparent, simple to administer, and objective. It should not be arbitrary or open to manipulation or negotiations behind closed doors. Above all, university funding must not be subject to short-term political objectives.

• **Respectful of university autonomy and academic freedom:** Universities and professors have rich practical knowledge of their institutional and pedagogical needs and strengths. Any funding formula must respect institutions' and professors' ability to pursue strategies that enable them to do what they do best.

With these principles in mind, we developed specific recommendations for the review. The full submission is available on OCUFA's website, but our proposals fell into three general areas.

First, it is important that the funding model remain student-centred. That is, it must be sensitive to the number of students at each Ontario university and the program choices made by those students. This will ensure that universities continue to have the resources they need to provide high quality academic programs. At the same time, it is important to recognize that many universities have special missions and serve particular regions, and the social value of these institutions may exceed the revenue provided by a student-centred model alone. It is therefore important that the funding model recognizes and supports these important mandates.

Second, performance-based funding – where public money is distributed according to the ability of a university to meet certain targets – is not the way for Ontario. There is no evidence to suggest that such systems improve the quality or accountability of universities. In fact, growing research indicates that performance funding may actually harm the quality of education. Performance funding, by its very nature, creates institutional winners and losers. This ultimately hurts students. Institutions that fail to meet targets—even for reasons outside of their control—will lose funding. This in turn compromises the quality of education provided to students. After careful consideration, OCUFA has rejected performance funding as inconsistent with the values and purpose of a public higher education system.

Finally, Ontario is in need of a new higher education data system. While a large amount of data is currently available on universities, this information is not always easily accessible or available in a way that allows for system-level analysis. Moreover, there are many important things that we simply do not know about our universities. For example, there is currently no public data on the number of contract faculty teaching in Ontario's universities. Such information is vitally important for making policy decisions about the future of our institutions.

Making more data available in more usable forms would serve the government's broad goals of transparency and accountability. To administer this system, OCUFA has suggested the creation of a higher education data agency, modeled on the UK's Higher Education Statistics Agency (HESA). To be effective, this new organization must feature robust representation from sector stakeholders to ensure that the higher education data system evolves to meet changing needs.

As of this writing, OCUFA is waiting for the release of the Review team's report on the consultation process. We will be viewing the report, and any subsequent recommendations and proposals, through the twin lenses of our principles and our key recommendations for an effective funding model. We look forward to continuing our work with the Government of Ontario to ensure the funding model works for students, staff, and faculty, while furthering the goals of an accessible and high-quality university system. AM

Judy Bates is the President of OCUFA and a professor at Wilfrid Laurier University.

Higher education and growing inequality

Simon Marginson

Rather than a tool of social mobility, higher education now reinforces inequality.

Plutôt qu'être un outil de mobilité sociale, l'éducation supérieure renforce maintenant l'iniquité.

> In the next generation, the balance between wage inequality and wealth inequality will start to shift back towards wealth.

In recent decades all countries have seen a rapid growth in the number of students going into higher education, including students from lower income backgrounds. But has this created more equal societies?

Take the case of the United States, still in many ways the model and trend leader for the Western world in economy, society, and higher education. The USA has developed extreme levels of economic and social inequality, social mobility is declining, and higher education has been unable to compensate—in fact, higher education itself is becoming more stratified. The upper middle class dominates access to the top private universities, participation rates have stopped growing, and graduation rates among low-income families are very disappointing. Inequality is also increasing in Canada—although social mobility, the opportunity to raise up from a low-income background or remote location—is still higher in Canada than in other English-speaking countries.

This article draws together what we know about economic and social inequality with what we know about social ordering through higher education. Following Thomas Piketty's historical approach to inequality in his book *Capital in the Twenty-first Century*, we can see important patterns emerging in the last three decades.

Economic inequality

Piketty suggests that income inequality is linked to differences in wages, but also to income generated from capital such as property. Most people earn most of their income from their job. Only the top 0.1 per cent earn the majority of their income from capital (wealth) such as government bonds, shares, investments, and property. Wealth is much more concentrated than labour incomes. The top 10 per cent of those who earn their income from labour typically get 20 to 35 per cent of all labour incomes, depending on the country. The top 10 per cent of individuals who earn income from capital normally secure between 50 and 90 per cent of all capital incomes, with the precise proportion again depending on country.

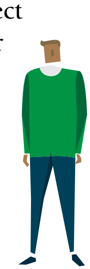
The concentration of wealth and income in the hands of the top 10 per cent, top one per cent, and top 0.1 per cent and top 0.01 per cent is rising in most countries. We are seeing extreme income concentration effects. The higher we move up the income scale, the more private fortunes are expanding—the proportional increase to the income of the top 0.01 per cent is greater than for all of the larger groups. The increase in concentration is particularly stark in the USA and United Kingdom. The ultra-rich seem to be in another world from the rest of us. They pay tax at low rates, hide wealth offshore, and their incomes are climbing rapidly, while other incomes stagnate or decline. They are untroubled by the limited funding of public services in low-tax polities because they purchase their own high quality private services.

Piketty's data show that we are seeing a dramatic regression in the economic history of wealth and inequality, returning us to the pre-World War I era.

The rise of equality of opportunity

In the 19th and early 20th centuries, society was dominated by a small group of rich families that commanded most of the resources. Education and working hard were not enough to move into the upper echelons—the would-be upwardly mobile in salaried positions could not secure the level of comfort afforded by inherited wealth.

However, this changed dramatically in the period between 1914-1945, as a result of two world wars and the Great Depression, which reduced or eliminated many large fortunes. World War II reset the counters close to zero, triggering a remaking and rejuvenation of wealth—in effect there were many vacancies in the middle and upper levels of society for the upwardly mobile to fill. Ultimately, this proved to be a transitional phase. Nevertheless, the period of social and economic openness was an extended one. This is because wealth creation had been partly democratized, notably and



influentially in the USA. Social openness was also facilitated by a long period of high economic growth after 1945, which helped to expand the size of the middle class and hence further increased the number of opportunities for upward mobility.

The New Deal government intervention in the USA; the emerging Beveridge welfare state agenda in Britain; wartime planning; enhanced national taxation; and the turn to 'democratic socialism' in Western polities in response to the challenge of the pro-working class communist bloc, all encouraged and enabled policies in higher education and other sectors that were designed to create a more socially just order. The passage of the G.I. Bill in the USA in 1944 set off an explosion of growth in higher education. It provided veterans with generous financial aid for tuition and living expenses, changing the face of the country by creating access to higher education for millions of Americans. There were parallel postwar higher education enrolment policies in many countries, including my own country of Australia. Many students obtained university degrees who would never previously have had the opportunity.

The period between the 1950s and the 1970s was the heyday of meritocracy in the English-speaking world, Western Europe, and Japan. Salary differentials in the workplace were modest. A new property-holding middle class emerged, spreading wealth as well as incomes. For a brief time in the 1970s inherited wealth was a minority of all private capital, outweighed by the capital people had created during their lifetimes, saved and invested in their own homes.

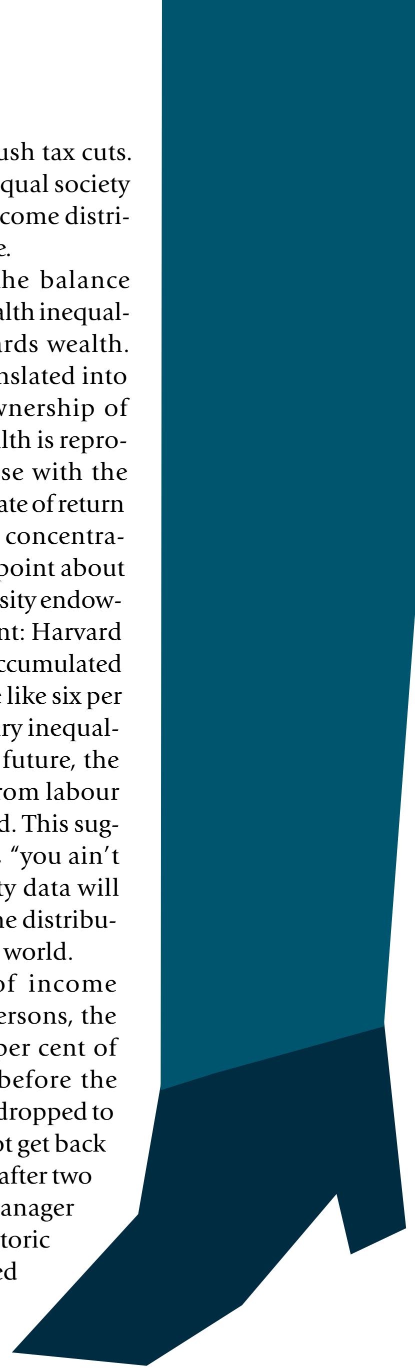
The great role carved out for schooling and higher education was that of a democratic mechanism for selecting aspirants for a socially just elite based in hard work and educated merit—an alternative to capital markets and inheritance.

From meritocracy to plutocracy

Piketty shows that in the 1970s and 1980s in Scandinavia, the most equal societies so far devised, the top one per cent of income recipients took in seven per cent of income from all sources, both labour and capital (Table 1). In Europe in 2010, the top one per cent received 10 per cent of all incomes. However, in the USA in 2010, the top one per cent received a much higher share at 20 per cent, and Piketty predicts it will be 25 per cent by 2030 if present trends continue.

The income received by the bottom 50 per cent has been as follows: 30 per cent of all income in 1970s and 1980s Scandinavia; 25 per cent in Europe 2010; but only 20 per cent in the USA in 2010. Piketty predicts it will be just 15 per cent in the USA by 2030. It is striking that by 2010 in the USA, the highly inegalitarian income distribution of 1910 Europe had been restored, though now more through disparities in labour income than through capital income as in the past. The main drivers of the exceptionally high income inequality in the USA are 'super-manager' salaries (which took off after Ronald Reagan broke the air traffic controllers' strike in 1981), and the Reagan/Bush/Bush tax cuts. The USA is already the most unequal society in modern history in terms of income distribution, but it is going to get worse.

In the next generation, the balance between wage inequality and wealth inequality will start to shift back towards wealth. Income inequality becomes translated into inequality of property, and ownership of property and other forms of wealth is reproduced across generations. Those with the largest fortunes gain the highest rate of return from capital, leading to further concentration of wealth. To illustrate this point about large fortunes Piketty cites university endowments, as the data are transparent: Harvard earns over 10 per cent a year on accumulated capital while the average is more like six per cent for other universities. If salary inequality continues to increase in the future, the two sources of this inequality, from labour and from capital, will compound. This suggests that in terms of inequality, "you ain't seen nothing yet;" the inequality data will start to look more like the income distributions typical of the pre-industrial world.



The top 0.01 per cent of income earners—one in every 10,000 persons, the true plutocracy—received five per cent of total income in the USA just before the Depression in 1928. Their share dropped to less than two per cent and did not get back to the 1928 position until 1998, after two decades of tax cuts and super-manager salary hikes. It then rose to an historic high of six per cent in 2007, dipped during the recession, but was restored to six per cent a year later and is ripping upwards again.

The UK, Australia, and Canada all follow the USA, but the trends are not as blatant. In the Nordic countries income differentials are modest. France, Germany, and Japan are intermediate cases. Inequality in Brazil is actually decreasing. These differences show that historical, institutional, and political factors play a role and that the tendency to accumulation of inherited capital is by no means inevitable.

Social stratification in US higher education

Turning now to higher education, we find that in the US, as the economist Joseph Stiglitz puts it, "Access to good education depends increasingly on the income, education and wealth of one's parents." This is true at both the school and college levels.

In *Degrees of Inequality*, Suzanne Mettler notes that in 1970, 40 per cent of US students whose families were in the

Table 1. Income shares of top one per cent and bottom 50 per cent, various years

	Europe 1910 High inequality	Scandinavia 1970s/1980s Low inequality	Europe 2010 Medium inequality	USA 2010 High Inequality
TOP 1%				
share of labour income	6%	5%	61.8	4.5
share of capital income	50%	20%	25%	35%
share of total income	20%	7%	10%	20%
BOTTOM 50%				
share of labour income	n.a.	35%	30%	20%
share of capital income	5%	10%	5%	5%
share of total income	20%	30%	25%	20%

Source: Adapted by the author from data in Piketty 2014, pp. 247-249

top income quartile had achieved a degree by age 24. By 2013 that percentage had risen to 77 per cent. For families in the bottom income quartile in 1970, only six per cent achieved a degree. By 2013 after 43 years of supposed equality of opportunity that proportion was just nine per cent.

In higher education, people's unequal capacity to pay and to compete for selective places has been joined by increasing stratification among the institutions themselves. The institutional hierarchy is getting steeper. Research by Scott Davies and David Zarifa in the USA and Canada shows that institutions that begin from a position of advantage build on that to improve their relative position over time. This is what market competition does when it is not corrected by policy. The relationship between resource concentration and student selectivity becomes stronger over the years.

This raises the question of whether degree value is increasingly unequal in labour markets. It is difficult to disentangle the effects of institution (the so-called brand effect) from the social and academic advantages enjoyed by the clientele of elite universities at point of entry, the effects of social background in mediating labour market outcomes, and the effects of learning. The evidence is mixed. But a large number of studies in the USA (and also in the UK and China) suggest that institutional brand affects degree value.

Access to elite institutions is stratified sharply by social group. Joseph Soares has shown that in the Tier 1 private universities in the USA, 64 per cent of students come from families earning in the top 10 per cent. According to the Dean of Admissions at Yale, only five per cent of American families can pay the full sticker price. But many poor students don't get to the starting gate for entry into elite institutions. Recent research by Caroline Hoxby and Christopher Avery shows that the vast majority of low-income high achievers do not apply to any selective college.

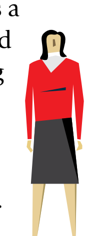
Associated with growing stratification at the top is the weak and weakening status of mass higher education. It is being weakened because of the partial withdrawal of per-student funding from public education, and the rising use of poor quality private for-profit higher education (heavily subsidized by federal loans financing in the USA) and online courses, as substitutes for state-guaranteed provision. Higher education is not responsible for extreme income inequalities in the USA, which derive from labour markets and tax policy. But these inequalities no doubt undermine the meritocratic rationale for higher education, and this contributes to undermining support for mass higher education and the weakening of its public funding.

Conditions for equality of opportunity have weakened

The conditions for equality of opportunity have weakened in four crucial respects, not just in the USA but in many countries.

First, across the English-speaking world, the former Soviet bloc, and much of Eastern Asia and Latin America, per-capita public funding of higher education is declining as participation grows. Increasing tuition costs affect social access, especially to the elite private universities. Free tuition would help (though it would be naïve to think this would be enough to overcome social and cultural inequalities at the point of selection). But the problem is that the tax revenues are not there to pay for it. There is a vicious circle—the taxpayer will not support equality of opportunity as a public good so public financing is reduced, which in turn reduces equality of opportunity and evaporates the argument for it.

Second, research especially in the USA suggests a declining commitment to student learning among both students and institutions. It is difficult to pin this phenomenon down conclusively, but there is some evidence that suggests a retreat from solid learning content and an increased focus on the selection function of education, navigating the educational hierarchy, student consumer satisfaction, and credentialing—aspects that are highlighted in a positional market. These practices break the link between hard work, content, and educational outcomes.



> We need to build more egalitarian higher education systems with a more broadly distributed capacity to create value.

This denies aspiring students from poor backgrounds a learning technology that they can invest in, while placing greater emphasis on the institutional smarts—the social and cultural capital—that they do not possess. This is as fatal for equality of opportunity as financial barriers.

Third, the shape of higher education systems is being 'stretched' vertically—the university hierarchy is getting steeper. Worldwide there is the ever-growing emphasis on 'world-class universities.' Every nation, it seems, now wants its own version of the American science multiversity, the kind of institution that figures in global rankings, but is less concerned with achieving Nordic quality in broadly accessible forms of higher education.

The formation of world-class universities is not a problem for equal opportunity provided the rest of the sector is elevated as well. However, in much of the world, the world-class university movement has become combined with a crisis in the quality of mass higher education. Here the retreat of the state shows itself. In many systems the majority of enrolments are located in private institutions of dubious value.

Fourth, the transfer function, or the potential to move between mass institutions and elite ones, is mostly weak or non-existent in most places. Transfer has even faltered in California, where it was part of the University of California system's original Master Plan, and has rarely developed well elsewhere.

Where to from here?

So we have on one hand growing economic and social inequality, and on the other a hierarchical higher education system with socially differentiated access to higher education overall, and further differentiated access to its upper reaches. Increasingly, the second form of differentiation overshadows the first, so the most important question is not access, but rather, "access to what?"

To what extent is educational inequality causal in itself, or to what extent is it merely a reflection of the larger patterns of inequality? Clearly all these structures and processes are interactive and in some sense mutually constitutive.

It is clear that higher education plays only a minor role in sustaining the position of the mega-rich. Higher education is not the driver of inequality at that level though no doubt the stratification of higher education sector plays into widening gap between upper class and middle class.

Where higher education can have its greatest effect is in increasing opportunities for upward mobility. Upper middle class family domination of prestigious universities limits that prospect. This is a key area in which to concentrate reform efforts. Education is a matter of social relations. We are all affected by the number and value of high quality educational places and by what governs access to those places. We need to assert the role of higher education as a public good and as a response to social and economic inequality, rather than as a mechanism for enhancing inequality, or a dead end with limited capacity to lift the individual and collective position.

We need to build more egalitarian higher education systems with a more broadly distributed capacity to create value. This will strengthen the relation between higher education and social outcomes and opportunities. There needs to be fairer selection into elite institutions, and the elimination of financial barriers to attend those institutions. The middle tier of institutions needs to be built up, though not at the expense of learning and research in the top group. We should flatten status by leveling up, not down.

But the history of the postwar period shows that there are limits to how far we can secure a more egalitarian society through change to higher education alone. In the English-speaking countries, the larger issue is to restore the social compact on taxation, increasing top marginal tax rates, and lifting the taxation of capital to the same level as taxation of income. This can begin to reassert democratic social values and re-strengthen higher education as an alternative to money and inheritance as determinants of social participation, selection, and individual and collective success. AM

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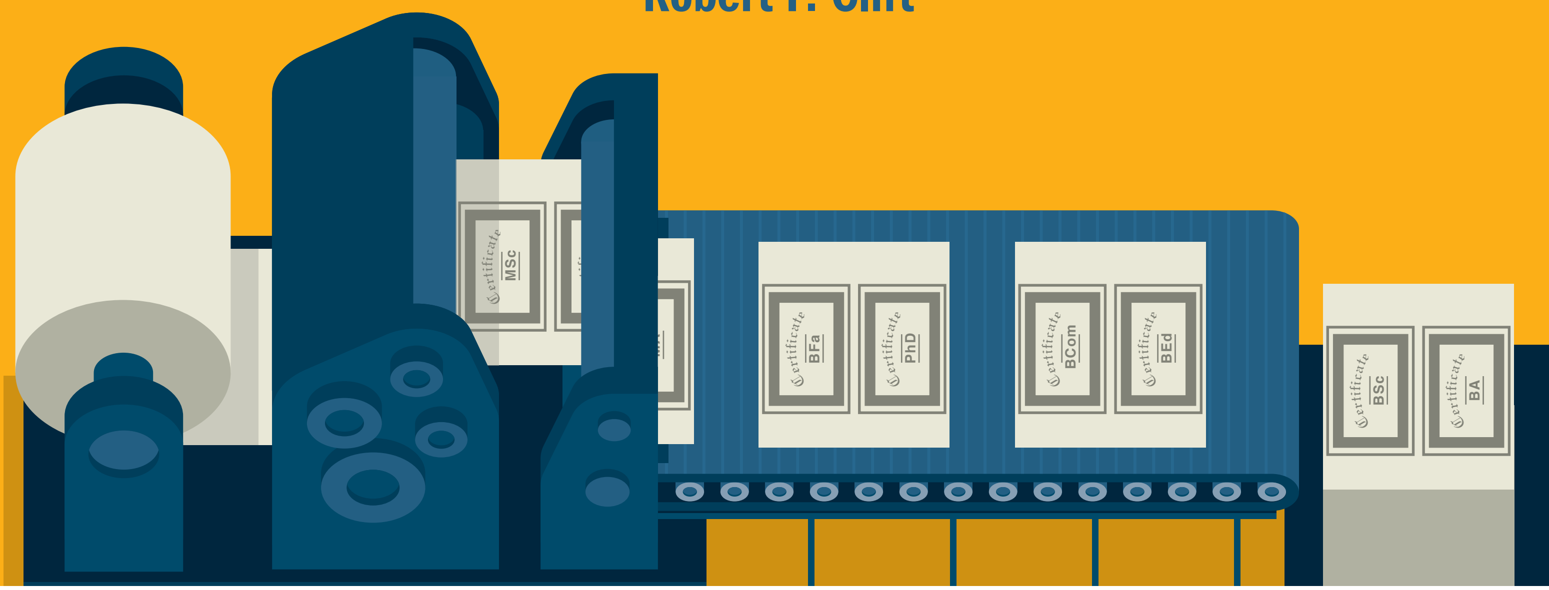
A CAUTIONARY TALE of marketization of postsecondary education

Robert F. Clift



British Columbia's experience with private postsecondary providers illustrates the danger of market logic in higher education.

L'expérience de la Colombie-Britannique en matière de fournisseurs privés de cours de niveau postsecondaire illustre le danger de la logique du marché concernant l'éducation supérieure.

For many years, British Columbia was second in Canada only to Ontario in the number of private postsecondary education institutions operating within its borders. This was largely a consequence of little to no regulation and a hospitable climate created by international students looking for an immersive English language learning experience.

This sector was reined in somewhat by the creation of the BC Private Postsecondary Education Commission in 1990. The legislation establishing the Commission required all institutions offering postsecondary education to be registered. Registered institutions had the further option of applying for a form of accreditation, which they used to brand themselves as a better quality institution.

Although this legislation had the effect of shutting down the fly-by-night operations, in practice it provided little protection for students. After some high-profile private institution closures, in 1999 the Act was amended to require institutions to pay into a Tuition Assurance Fund for the purposes of reimbursing students left in the lurch by institutional closures.

The 1999 amendments also expanded the investigative authority of the Commission, giving it the power to enter premises and access all institutional records. This gave the Commission some teeth in dealing with uncooperative institutions.

The evolution of the Commission as a consumer protection agency came to an abrupt halt in 2003 when the Liberal government of Premier Gordon Campbell replaced the Commission with the Private Career Training Institutions Agency. The Agency was very similar in function to the Commission, but rather than being directed by government appointees, the Agency was directed largely by the private institutions themselves.

Self-regulating industries work best when the vendors have a shared interest in providing high-quality products and maintaining consumer confidence, and the consumers have access to extensive third-party information about the vendors and their products. Despite warnings that BC's private post-secondary education sector lacked these key characteristics, the Liberals forged ahead with their experiment.

From the outset, there were rumblings that the new Agency tended to favour institutional interests over student and public interests. This became abundantly clear in 2006 when it was revealed that the chairperson of the Agency's quality assurance committee, Michael Lo, had been evading the Agency's scrutiny for years and was illegally offering degree programs through his private college.

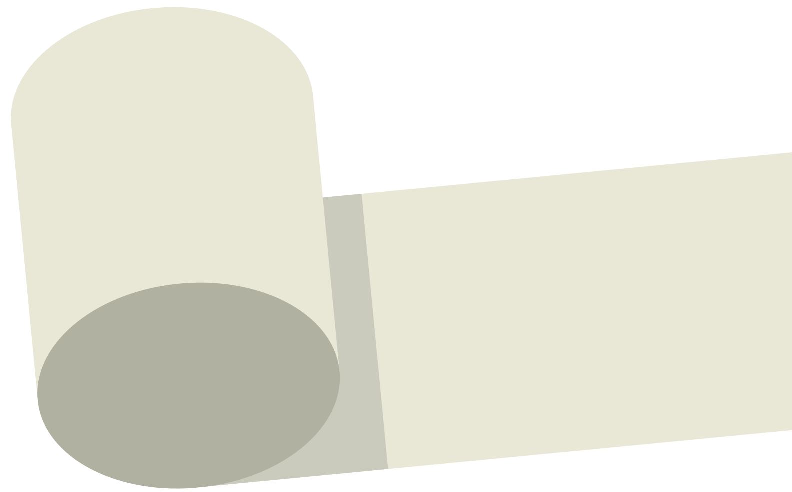
Michael Lo also played havoc with the Liberal government's attempt to build a private-sector market for degree programs in British Columbia—a point I will return to shortly.

Over the years, various US-based private institutions had offered degree programs in British Columbia, despite prohibitions from doing so in the province's *University Act*. Successive Social Credit and NDP provincial governments chose to turn a blind eye to these activities because the political cost of dealing with the problem appeared greater than any potential benefit to British Columbians.

However, the political cost of ignoring these out-of-province and private degree-granting institutions grew rapidly in the late 1990s as a university degree became much more valuable as an entry-level credential for the labour market.

In addition to the expansion of grey market degree-granting institutions operating in British Columbia, a number of fake degree-granting institutions set up shop in and around Vancouver, taking advantage of BC's lax enforcement of the *University Act*.

In 2001, the Ministry of Advanced Education commenced proceedings to shut down one such questionable institution, Vancouver University. As a result of the Ministry's failure to enforce the provisions of the *University Act* against this institution for more than 20 years, the trial judge refused to grant an injunction to prohibit the institution from representing itself as a university and granting degrees.



This failure of its existing practices forced the Ministry of Advanced Education to create a new mechanism to deal with the grey market and fake degree-granting institutions that had made their home in British Columbia.

Consideration was given to limiting degree-granting to BC institutions specifically chartered to do so. However, a handful of legitimate US-based institutions that had been operating in British Columbia wanted to continue their operations in the province. They argued that rather than being barred from operating in BC, they were willing to submit to some form of quality control process to assure government of their legitimacy.

These voices were joined by a small number of BC business people who saw profit in expanding the offerings of their private colleges, or setting up new private institutions specifically to grant degrees.

In keeping with its free market ideology, in 2002 the Gordon Campbell government introduced the *Degree Authorization Act* which, for the first time, provided a framework by which anyone, including for-profit institutions, could legally offer degree programs in British Columbia provided they passed a quality assurance process.

One of the applicants for authorization to grant BC degrees was Michael Lo, owner of Kingston College in Burnaby, who, in 2001, had purchased Lansbridge University, a private Canadian institution based in New Brunswick.

Lo had originally sought to operate a BC-based campus of Lansbridge University in BC's grey market. He pressed his case in personal meetings with the Liberal Premier and the Minister of Advanced Education, but was ultimately told he would have to apply for permission under the *Degree Authorization Act*.

In 2004, Lo first applied to the Degree Quality Assessment Board to grant degrees under the new legislation. When these applications proved inadequate, he withdrew them and reapplied in early 2005.

Despite misgivings expressed by several parties about Lansbridge's eligibility to be called a university and its ability

The new Act will bring the private postsecondary education industry firmly back within the control of government.

to offer reasonable quality degree programs (including strenuous objections from this author), approval was given to Lo in June 2005.

Lansbridge may have operated without much scrutiny for years had not Lo's previous transgressions at Kingston College come to light in the fall of 2006. A group of students from India who had been studying at Kingston College for a degree from a UK-based university went to the media to complain about their shoddy treatment by the college.

It turned out that Kingston College's partner university, American University in London, was a degree mill and had been forced to shut down by UK authorities. Kingston College told the students they could instead apply their credits to a degree from another US-based institution (which was also was a degree mill) but they would have to pay additional tuition fees on top of the almost $15,000 they had already paid Kingston.

If these students had given up, as many before them had, Michael Lo would have gotten away with his malfeasance. Instead, the student complaints in the media resulted in formal investigations of Michael Lo and his educational enterprises, the 2007 closure of Lansbridge University's BC operations, and the collapse of a significant portion of Lo's educational empire.

The Lo case was a huge embarrassment for the Liberal government and stymied their efforts to expand the market for private-sector postsecondary education in three significant ways.

First, the government was forced to concede that it had given too much freedom to the private postsecondary education industry to regulate itself through the Private Career Training Institutions Agency. In the spring of 2007, new government appointments were made to the governing board and new public reporting requirements were implemented to improve the transparency of operations.

Second, the Degree Quality Assessment Board was forced to review how Lansbridge University had passed through its review process when there was documentation available in government agencies on Michael Lo's past transgressions. Although this resulted in some tightening of procedures, the more significant outcome was the admission by some members of the Board that they no longer felt as obliged to facilitate the Liberal government's fast-track expansion of private degree programs in British Columbia.

Third, the Kingston College and Lansbridge University debacles, amongst others, resulted in Indian, Korean, and Chinese government officials raising serious doubts about British Columbia as an educational destination for their citizens. The Liberal government was forced to make public promises of private postsecondary education reform to placate disgruntled foreign officials.

In one fell swoop, Michael Lo had succeeded where public interest advocates had failed: he proved the failings of self-regulation for the private postsecondary education sector, he restricted the growth of the private degree granting in British Columbia, and he forced the Liberal government to pull back on its plans for further liberalization of the private postsecondary education market.

In the summer of 2007, the Ministry of Advanced Education engaged John Watson, a respected former postsecondary education administrator, to conduct a review of the *Private Career Training Institutions Act*.

Watson's 2008 report confirmed that the self-regulation model created by the Gordon Campbell government in 2002 had ill-served students, the public, and BC's international reputation. Moreover, the provisions to protect students from market failures and malfeasance had proven largely inadequate.

Watson proposed overhauling the Act to increase investigative and quasi-judicial powers, to make student and public interests paramount, to increase protections for students, to improve transparency of operations, and to expand the scope of coverage to include all private postsecondary institutions.

Watson's report resulted in immediate changes to the policies and procedures of the Private Career Training Institutions Agency, but it wasn't until the spring of 2015 that the *Private Training Act* was introduced and adopted.

The new Act will bring the private postsecondary education industry firmly back within the control of government. The industry will be accountable to a Registrar and a Commissioner, both civil service appointments, who will exercise broad powers of administration, investigation, and adjudication.

> Although the new legislation greatly improves accountability and transparency, it does so as a matter of administrative function and not public service.

The full scope of the Act will be defined by regulations yet to be established by the Minister of Advanced Education, so it is difficult to say if the new regulatory regime will fully address the many deficiencies identified over the previous 25 years of regulation.

What is clear is that students and the public still will not have access to independent information about providers and programs. Although the new legislation greatly improves accountability and transparency, it does so as a matter of administrative function and not public service.

Speak to students at private postsecondary institutions and it won't take long to hear stories about fellow students being ill-treated by institutional officials.

This is not unique to private institutions, but at public institutions there are multiple avenues by which students may seek resolution. For example, they can speak to a higher-level official, they can approach the institutional ombudsperson, they can ask the student association to intervene, or they can sound off in the student newspaper.

At private institutions, there typically is only one avenue for resolution and it ultimately ends up in the office of the person responsible for the profitability of the institution.

Under such conditions, it's not surprising to hear stories from students at private institutions who are ignored, bullied, and even threatened with legal action for seeking resolution to legitimate grievances.

To draw an analogy, what would it be like to buy an automobile in a market where the manufacturers supressed all complaints about their products? Or where the authors of critical product reviews were silenced by threat of legal action? Or where there was little information about whether the vehicle was still running after five years?

That's what it's like to be a consumer of private postsecondary education in Canada.

In the United States, the situation is somewhat better because of the long tradition of private postsecondary education. However, private postsecondary education students still lack information and leverage that other consumers take for granted.

So, what lessons can be learned from British Columbia's 25-year experiment in the marketization of postsecondary education?

First, the postsecondary education market is unlike other markets in that the final product is not the result of discrete processes applied to an inert object within a well-defined framework. Rather, it's a messy process of continuous instruction, assimilation, application, evaluation, and reflection among free-willed individuals. There are certain aspects that can be codified and objectively evaluated, but ultimately education is a subjective experience.

Second, without the freedom for students to share these subjective experiences with potential students, there remains a massive asymmetry in information available to the vendor and the consumer. The student will always have a structural disadvantage, resulting in market failures.

Third, government regulation of the private postsecondary education market might reduce the incentives for vendors to take advantage of the information asymmetry, but the structural disadvantage for the consumer remains. Unless government takes substantial steps to reduce the asymmetry between vendor and consumer, the symptoms of market failure will persist.

The marketization of postsecondary education is inevitably the result of ideology intersecting with political calculus. The lesson from British Columbia is that the interests of students and the public will be served only when the political cost of not doing so is greater than the cost of the alternatives. AM

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THE ROLE OF GOVERNMENTS in corporatizing Canadian universities

Jamie Brownlee

Government focus on boosting the economy and shrinking public expenditure has transformed our universities.

L'importance qu'accorde le gouvernement à la stimulation de l'économie et à la réduction des dépenses publiques a transformé nos universités.

A new, market-based vision for higher education has taken shape in recent years, and the direction and priorities of higher education policy in Canada have shifted alongside it. In my recent book, *Academia, Inc.: How Corporatization is Transforming Canadian Universities,* I connect these changes to a process of corporatization. I take no credit for the term. "Corporatization" and the "corporatized" university are now commonplace in both academic and lay circles. And, the fact that Canadian universities are being transformed has not really been questioned. But there remains considerable debate around the sources of this transformation. Who or what is responsible? Corporate leaders, university administrators, and "academic capitalists" have all been implicated. Some have suggested that students, who are sometimes accused of embracing the role of educational "consumers," aslo share responsability. I would add, though, that there is another group of important players, a group who have perhaps not received the attention they deserve: governments.

The pivotal role of underfunding and austerity

One of the driving forces behind university restructuring in Canada has been the sharp and prolonged reduction in government funding that began in the 1970s. There are important linkages between these austerity measures and processes of corporatization. The logic is simple: once underfunding has undermined the integrity and functionality of a public system, corporations and market-oriented bureaucrats are invited to come in and reinvigorate these "failing" institutions through restructuring or privatization. In some cases, this need to shift to a corporate model has been clearly articulated by political, business, and even university leaders. For example, the Task Force on Labour Market Development, headed by economist David Dodge in the early 1980s, recommended a number of concrete ways that universities could be "induced" into a restructuring mandate. These included more reliance on private funding, redirecting federal money to support sponsored research and market-based programs, and reallocating funds away from arts-based disciplines.

In the 1980s and 1990s, other actors, including the Business Council on National Issues (BCNI) and the Corporate Higher Education Forum (CHEF)—an alliance of 25 corporate CEOs and 25 university presidents—also played a leading role in achieving an elite consensus on educational issues. The BCNI launched a sustained attack to undermine public confidence in public education and repeatedly called for government cutbacks to universities, while the CHEF explicitly advocated government underfunding to make universities more responsive to private interests. As part of these campaigns, the university was portrayed as unresponsive to market demands and the home of a lot of useless learning. These campaigns placed universities alongside other supposedly outdated public programs and entitlements, such as social security. The strategy taken up by many Canadian elites is summed up in a 1995 quote from the Conservative Education Minister of Ontario, John Snobelen, who said: "If we really want to fundamentally change the issue in training and... education we'll have to first make sure we've communicated brilliantly the breakdown in the process we currently experience. That's not easy. We need to invent a crisis. That's not just an act of courage. There's some skill involved."

Snobelen's "crisis" was largely invented through fiscal austerity. Canadian federal governments have steadily reduced the monetary commitment to postsecondary education through direct cuts to transfer payments and amendments to the funding formulas that determined them. Between 1983-84 and 1994-95, the federal contribution to postsecondary education was reduced by over $13 billion. When student enrolment is taken into account, the amount of federal transfer money spent per student declined by almost 50 per cent between 1994-95 and 2004-05. Many provinces also introduced their own brands of austerity during this period, such as the Conservative governments of Mike Harris (Ontario) and Ralph Klein (Alberta) who dramatically reduced university operating grants as part of a broader effort to shrink the public sphere and redirect higher education toward prescribed economic goals.

At the national level, public funding made up 84 per cent of university operating revenues in 1979; by 2009 this figure was reduced to just 58 per cent.

By the time the federal Liberal's thirteen-year reign was over in 2006, Canada's university system was a shell of its former self. Federal and provincial government funding for university teaching and non-sponsored research fell from more than $17,900 per student in 1980-81 to $9,900 in 2006-07. Although the federal Conservatives increased funding to universities through transfer payments and research funds beginning in 2006, these increases were still billions of dollars short of what was needed to restore funding to 1990s levels. The government also failed to set any binding conditions or legislated guidelines for new investments, which meant that while some provinces increased their grants to universities, others did not and some, like British Columbia, even reduced them. At the national level, public funding made up 84 per cent of university operating revenues in 1979; by 2009 this figure was reduced to just 58 per cent.

While this mix of austerity programs over the past four decades may have reflected resource scarcity on the part of governments, it is important to understand that they were also part of a deliberate plan to link universities more closely to the needs of the market and lay the foundation for corporatization.

Willful neglect of teaching and teachers

As government support for university teaching has plummeted, there has been an increase in targeted funds for university research. We have seen the introduction of the Canadian Foundation for Innovation and the Canada Research Chairs program, and a range of selective grants supporting the private sector and university-industry ties. And as more and more money is channeled into these special targeted programs, less money is reaching the classroom. Sponsored research in Canada's 25 largest universities accounted for around 15 per cent of university expenditures in 1988; by 2008, this figure had grown to 25 per cent. Teaching has not just fallen on the list of priorities, it has been pushed there by conscious resource allocation decisions.

An even more notable consequence of government cutbacks has been the sharp growth in the number of contract faculty working in Canadian universities. In Ontario, for example, the changes have been dramatic. According to data I received through freedom of information requests, in those departments that are now part of the Faculty of Liberal Arts and Professional Studies at York University, the number of part-time contract appointments increased from 531 to 1253 (136 per cent) between 2000-01 and 2009-10, while the number of tenure-stream faculty grew from 493 to 593 (18.3 per cent). The growth in part-time positions was especially prominent in certain departments, such as English (564 per cent); Languages, Literatures and Linguistics (180 per cent); Administrative Studies (174 per cent); and Philosophy (169 per cent). In the 16 departments I reviewed at Trent, the number of part-time positions increased from 66 to 200 (203 per cent), while the number of tenured/tenure track positions increased from 138 to 156 (13 per cent). At Carleton, in 2003-04, part-timers were responsible for teaching one out of every five undergraduate courses; eight years later, they were teaching one in three.

Some argue that the accelerated use of contract employment represents a deliberate management strategy to impose labour "flexibility" in the academy and transform the nature of academic work. I would certainly agree. But this transformation would not have been nearly as severe in the absence of imposed resource shortfalls. In fact, contract faculty hiring represents one of the primary cost-saving measures available to cash-strapped universities.

Selling out the "customers"

Successive federal administrations and most provincial governments have adopted a "customers pay" orientation to university financing. This approach has resulted in Canada having high tuition fees, especially by European and Scandinavian standards. While tuition varies considerably across provinces, the overall cost of undergraduate tuition has grown from an average of $1,706 in 1991-92 to $6,191 in 2015-16, an increase of 263 per cent. Escalating fees has also meant escalating student debt. Federal government student loan debt in Canada is approximately $15 billion. When provincial and commercial bank loans are included, the total is closer to $20 billion. A recent study by the Canadian Federation of Students shows that students requiring a Canada student loan now graduate with average debts of over $28,000 (Burley and Awad, 2015). Of course, tuition is not the only culprit. According to the OECD's *Education at a Glance 2014*, student aid in the form of grants now covers a much smaller proportion of the direct costs of postsecondary education in Canada than it does in most other OECD countries.

Skyrocketing fees and regressive aid policies do not only reflect an economic strategy, or the inevitable impact of public funding cuts. On the contrary, downloading the costs of higher education to students and their families is a political choice based on particular assumptions about public education and what constitutes a just society. This is particularly evident when tax policies are taken into account. In 2011, David Macdonald and Erika Shaker of the Canadian Centre for Policy Alternatives estimated that the total cost of rolling back undergraduate tuition rates in Ontario to their 1990 level—from $6,500 to $2,500 a year—would cost approximately $1.5 billion. In contrast, the corporate tax cuts the province introduced in 2009 cost roughly $1.6 billion. At the national level, Canadian federal governments chose to forgo approximately $48 billion in revenues through tax cuts during the 2000s, with much of it going into the pockets of Canada's largest corporations. Just 10 per cent of that money could have funded the elimination of tuition fees for all students currently enrolled in Canadian universities.

When you consider the far ranging impacts of these policies, it is clear that governments are doing universities—and Canadians—a great disservice. Research has shown that rising tuition and debt levels are blocking access to higher education for underprivileged families (Coelli, 2005, 2009; Neill, 2009). Students with high debt levels are also more likely to take on paid employment with adverse academic effects (Callender, 2008; Côté and Allahar, 2007; Motte and Schwartz, 2009), more likely to complete their studies at a slower pace (Ekos, 2006), less likely to graduate or pursue further education (Maritime Provinces Higher Education Commission, 2007; Prairie Research Associates, 2007; Williams, 2012), and less likely to consider employment or training in public service occupations (Chernomas and Black, 2004; Field 2009; Tannock 2006).

Debt dependence also permeates our broader political culture. As more and more students are forced to deal with the debt "time bombs" that await them after graduation, they are less and less likely to participate in social activism. In this way, I see debt dependence as serving a disciplining and individualizing function. It is contributing to the creation of a fragmented society where individuals are focused on individual concerns and less likely to engage in collective struggles. I have no doubt this impact is also understood by governments—and their private sector partners—who control the policy-making process.

Strengthening corporate governance

Austerity measures also affect university governance. As Canadian universities have increasingly turned to private sources of financial support, they have also devoted a greater and greater share of institutional resources to external relations (such as fundraising and the expansion of corporate-university partnerships). Growing financial concerns and secretive corporate agreements within universities have ostensibly required management that is free from faculty influence. The result has been that there are more and more career administrators who are hired from outside of the university to govern with a corporate, managerialist approach.

Governments have also inserted themselves more directly into the university governance process. In addition to championing the idea that our universities are not producing enough graduates with relevant skills and talents (the highly touted and largely illusory "skills gap"), they have also played a lead role in redefining curricular relevance by assuming greater control over academic programs. The Alberta government, for example, has introduced funding and other mechanisms—including so-called mandate letters specifying government expectations—to ensure that new university programs correspond with its interpretation of labour market needs. Performance indicators have also become a popular tool used to monitor and support corporate priorities, such as the training of "work-ready" graduates. Governments have provided tens of millions in taxpayer dollars to support contentious donor agreements, such the Munk School of Global Affairs at the University of Toronto and the Clayton H. Riddell School of Political Management at Carleton University. Another disturbing trend is the appointment of executives from management consultant firms (that specialize in the privatization of public services) to university boards. In 2013, the Government of Alberta appointed Firoz Talakshi, a KPMG executive, to the University of Calgary's Board along with Steve Allan, who specializes in "corporate restructuring and insolvency", while the government of British Columbia recently appointed Ernst & Young Executive Fiona Macfarlane to the Board of the University of British Columbia.

Government funding mechanisms also have an impact on campus infrastructure. Capital funding for universities accelerated during the 2000s, largely through Ontario's SuperBuild program, funding for research infrastructure provided by the Canadian Foundation for Innovation (CFI), and the federal government's Knowledge Infrastructure Program. All of these programs were designed to secure matching funds from the private sector, which means they have a structural preference for infrastructure projects in certain disciplines. Between 1998 and 2009, for example, the CFI disbursed over $4.2 billion to various projects, with about 90 per cent of this funding going to the physical sciences, health sciences, and engineering (accounting for 5,590 out of 6,310 funded projects). In contrast, arts, literature, humanities and social sciences received just five per cent of funds. This disparity has allowed the CFI and its corporate partners to exercise considerable influence over curriculum and research priorities.

"Innovation" = commercialization

The main impact of government "innovation" agendas, especially at the federal level, has been to commercialize university research. This was evident in the 1980s when the Mulroney Conservatives overhauled Canada's national research policy to turn university researchers away from basic science and towards commercial application. Examples include the development of the federal Networks of Centres of Excellence (NCE) program and the changing mandate of the Science Council of Canada. In the 1990s, the Liberals branded their own innovation agenda in several major reports, including one by the Expert Panel on the Commercialization of University Research. It argued that universities should add a fourth mission—"commercialization"—to their customary missions of teaching, research, and service. From 2006 on, the Harper Conservatives went even further. They launched a new NCE program to be "proposed and led by the private sector." Some of the new NCEs were packaged as Centres of Excellence for Commercialization and Research (CECR), which were designed to facilitate commercialization in the priority areas of management, business and finance; natural resources and energy; health and life sciences; information and communica-

The main impact of government "innovation" agendas, especially at the federal level, has been to commercialize university research.

tions technologies; and the environment. An example of a CECR with an alleged environmental focus is the Canada School of Energy and Environment, which supports tar sands development and advises industry and governments on creating "sound" regulations and "appropriate" legislation to deal with fossil-fuel energy expansion.

The federal Conservatives also oversaw a strategic reorientation of the federal granting councils. In 2009, it was announced that scholarships granted by the Social Sciences and Humanities Research Council (SSHRC) would focus on "business-related degrees." The Canadian Institutes of Health Research (CIHR) also has a new commercial mandate. And the National Science and Engineering Research Council (NSERC) got a complete overhaul. As part of NSERC's new focus on innovation, the government redirected public funds to programs to help solve company-specific problems, which is tantamount to providing free labour for the corporate sector (since 2009, company specific research funding has grown by more than 1,000 per cent). In 2012, NSERC was even offering to organize "speed dating" events to bring interested researchers and corporations together. At the same time, NSERC's Discovery Grants program—the main funding source for basic research in the natural sciences and engineering— has declined significantly, from two thirds of the Council's budget in 1978 to one third in 2010. The NSERC currently has no natural scientists on its governing council, but it does include a number of corporate representatives (one of whom used to head the Fraser Institute).

Recent federal budgets have continued along the same lines. In 2012, $37 million was allocated to enhance granting council support for "industry-academic research partnership initiatives" in areas with promising commercial output. In 2013, all new money announced for the councils was targeted to support research partnerships with industry. In the 2014 budget, the government launched the Canada First Research Excellence Fund, which accelerated council support for targeted research in the interests of corporate Canada.

Corporatizing academic research has gone hand in hand with the decline of basic research funding, even though it is basic research that has yielded many of the world's most important scientific and technological advancements (not to mention those of major commercial significance). In fact, the majority of scientific breakthroughs in virtually every field have resulted from basic research conducted in academic settings built and supported largely by public funds. The strategy of defunding basic research and throwing resources at the narrow fields of commercial application has been highly damaging from a public interest perspective.

Who do our governments represent? Not the public

The role of governments in transforming higher education in Canada has been considerable and, with few exceptions, guided by a unidirectional economic focus. They have been preoccupied with how to reshape universities to contribute to corporate profitability and national competitiveness, and how to create enough "human capital" to facilitate economic growth.

Not only does this vision offer a distorted and dehumanized view of the value and purpose of education, it sharply conflicts with the goals and values of Canadians. On virtually every measure, the public opposes a corporatization agenda. A majority of Canadians strongly disagree with a "customers pay" model of university financing, with most agreeing that tuition fees should be eliminated altogether (CAUT, 2009). They are vehemently opposed to public funding cuts (CCL, 2009; CFS 2012; Ipsos Reid, 2004). They believe that teaching—not research—is the most important factor in considering university quality (Ekos, 2003). A majority also believe that the best strategy to compensate for funding shortfalls would be to reduce central university administration costs (CAUT, 2011). And, although the opinions of university scientists have been largely ignored by our political leaders, the public believes they should be taken seriously. According to a nation-wide poll, 44 per cent of Canadians said they find the opinions of university scientists to be the most trustworthy in debates over university research funding. In sharp contrast, 10 per cent said corporations were the most trustworthy source, nine per cent said university administrators, and just nine per cent said the federal government (CAUT, 2009).

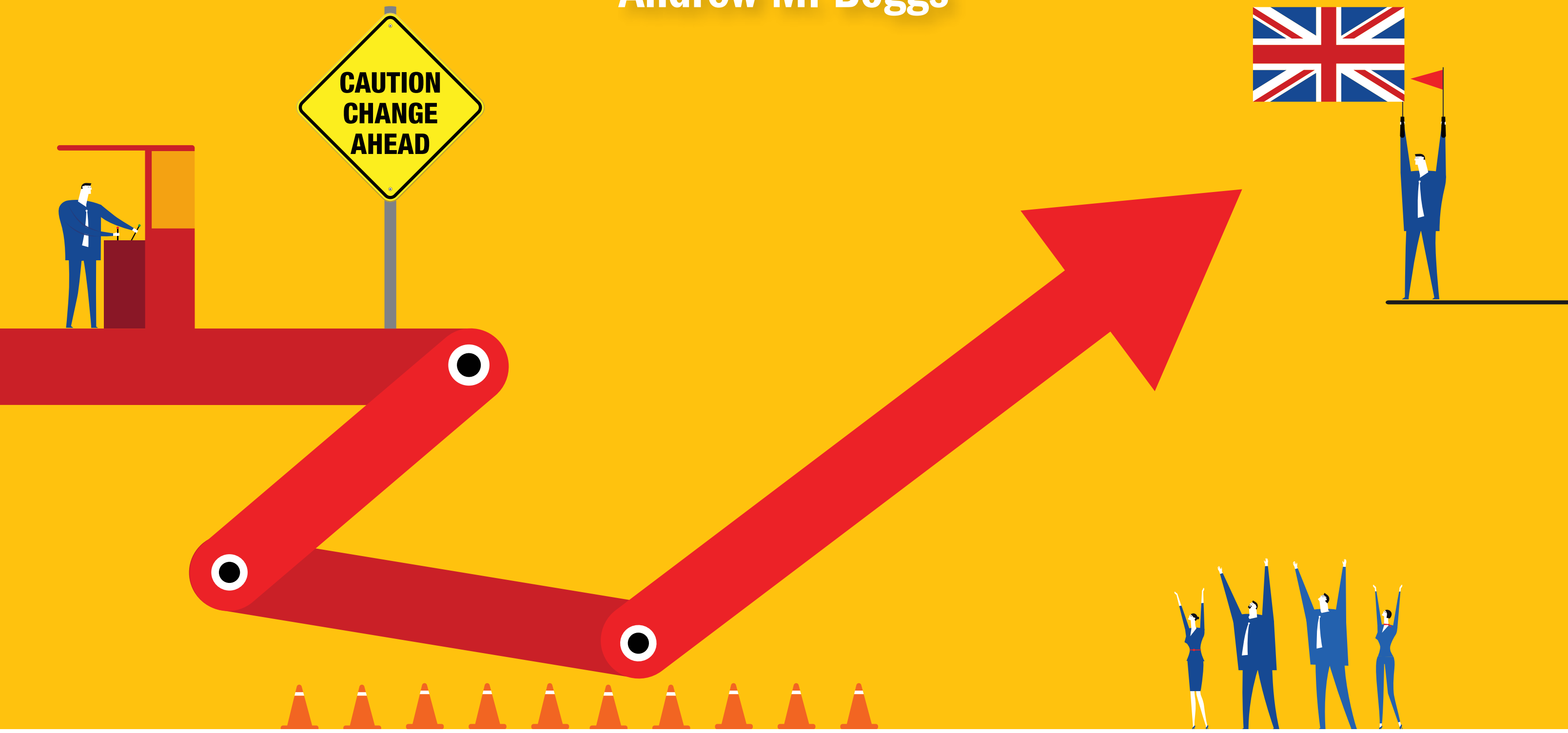
Governments are supposed to represent the will of the people on matters of public policy. In the area of higher education, they simply have not. AM

Jamie Brownlee is the author of Academia, Inc.: How Corporatization is transforming Canadian Universities, *out now from Fernwood Publishing.*

*For references, please go to the web version of this article at www.academicmatters.ca

UK HIGHER EDUCATION WARS: Federalism awakens

Andrew M. Boggs



The seismic shifts in UK higher education policy can be understood through the lenses of federalism, regulation, and isolationism.

Les basculements sismiques des politiques en matière d'éducation en G.-B. peuvent être compris sous les angles du fédéralisme, de la réglementation et de l'isolationnisme.

To say that higher education in the United Kingdom is undergoing a seismic and historic transformation would be an understatement. Two key changes that are driving this transformation are England's £9,000 fee cap for universities and the winding down of grants for funding teaching. While most of the country, and many scholars, have focused on the impact of the funding change on students, less attention has been given to the impact of this change on the legal and policy frameworks for UK higher education. In addition to these forces, a changing attitude within the UK toward membership in the European Union and to immigration threaten to further unsettle the higher education sector.

As a former civil servant in Ontario and a student of higher education history, I find this situation fascinating. Working in this changing policy environment for a few years has offered unique insight into these developments. Capturing the many moving parts of the changing UK higher education policy environment is extremely difficult. However, three themes help shed light on current trends: federalism, regulation and isolationism.

Federalism

Many Canadians and Americans may have noted the growing federal nature of higher education policy making in the UK. The UK is an increasingly fractured policy environment when it comes to higher education. At the moment, three areas continue to tie together higher education policy in Wales, Scotland, Northern Ireland and England: research funding, the provision of data on students and higher education providers, and quality assurance. While the former two elements remain relatively stable for the time being, the third is on the precipice as differences develop across the four nations. The interesting question is: how did these divisions evolve?

Higher education has been a matter for the devolved administrations of the UK (this includes the "Home Nations" of Wales, Northern Ireland, and Scotland) since 1998. However, it really wasn't until the 2004 *Higher Education Act*'s introduction of "top up" tuition fees in England in 2004 that a fissure emerged in UK higher education policy-making. This gulf widened following the 2010 publication of the government's review of undergraduate education in England, the Browne Review, which led to the introduction of a £9,000 (about $18,000 CAD) per year fee cap, the creation of an income contingent loan repayment scheme (ICLRP), and liberalization of the higher education market for England in 2012.

While England pursued a privatization and markets agenda, Scotland has doggedly refused to accept tuition fees for its students (although it does allow universities to charge up to £9,000 to non-Scottish, UK-resident students from England and the other Home Nations) and continues to view private higher education providers with skepticism. However, Scotland also lags behind its English cousin for widening participation in higher education for lower income groups, despite attempts by the Scottish Executive to improve student performance.

Given its close proximity to the growing population of southern England, Welsh higher education policy tends not to stray too far from that in England. However, given the stark economic outlook facing Wales it cannot afford the comparatively laissez-fair market approach pursued by England. The Welsh government needs the policy levers to deploy higher education as an economic development tool. The recent *Further and Higher Education Act (Wales)* passed by the Welsh Assembly in Cardiff gives greater power to the Welsh government to direct higher education funding, with an option to circumnavigate the Welsh higher education buffer body, the Higher Education Funding Council for Wales (HEFCW).

The Welsh government continues to subsidize its students' tuition fees to alleviate their debt burden post-graduation. Interestingly, this subsidy applies to students who choose to study over the border in England (or the other UK home nations), reducing Welsh students' £9,000 fees to under £4,000. While excellent for promoting student mobility, the fee subsidy policy essentially allows higher education funding to bleed from Wales to, for the most part, England. Welsh universities complain they are underfunded, as Wales's higher education funding flows elsewhere and higher education participation rates in Wales languish behind those of England. Furthermore, the fee subsidy almost actively encourages students to leave Wales exacerbating the brain drain from the region.

Northern Ireland suffers similarly to Wales. Like Scotland and Wales, Northern Ireland subsidizes Northern Irish students' fees, but also allows its two universities (Queen's and Ulster) to charge fees up to £9,000 for students coming from the other Home Nations. Unfortunately, given mounting political instability and an inability to manage public expenditure elsewhere, annual and in-year cuts to the higher education budget have resulted in both Queen's and Ulster having to reduce the number of Northern Irish students they accept in favour of seeking more English, Welsh, and Scottish students. This is because Northern Irish students are funded at a loss to the university. The perversity of the funding situation created by the Northern Ireland Executive means that those Northern Irish students who can afford it will leave Northern Ireland to study, while less advantaged students are left fighting for a shrinking number of spots.

It remains to be seen how the UK's increasingly federal higher education sector will play out as England and Scotland appear to excel (for the most part) while Wales and Northern Ireland are left fighting for resources in a shrinking pool.

Regulation of English higher education

The newly elected Conservative government, now with a small majority and unhindered by its former partnership with the progressive Liberal Democratic Party, are undertaking a government-wide spending review. The purpose of the review is to reduce overall government expenditure and the budget deficit. All Ministers have been asked to model both a 25 per cent cut in spending and a 40 per cent cut in spending in their respective departments. Numerous reports suggest that the Minister for Business Innovation and Skills (BIS), the department with responsibility for higher education, is preparing his department for a 40 per cent reduction to the English higher education budget. If this is true, English universities should be expecting major cuts to what remains of the public grants they receive.

In order to achieve this level of cutbacks, the department would be forced to consider the potential savings of dismantling its many arms-length agencies. This could include the Higher Education Funding Council for England (HEFCE). England, along with Scotland and Wales, continues to operate with a quasi-independent funding body and statutory authority over granting. However, England's 2012 move from a grants-based to largely fee-based funding system means that HEFCE's principal job, the funding of higher education institutions, is being slowly whittled away as a larger and larger percentage of university income is derived from student fees supported by government-backed loans.

The consultation also signals that regulation of English higher education will move from a supply-side, sector focus to a demand-driven, market focus.

HEFCE does have an increasing role in the regulation of universities in England. However, it does not have statutory authority to oversee the growing number of private higher education providers in England. Furthermore, its authority over universities extends from its funding relationship—less funding means less control. Under current statutes and regulations, HEFCE is becoming surplus to requirements.

One area in which HEFCE is exerting its influence is quality assurance in higher education. In May 2015, HEFCE announced a comprehensive review of existing quality assurance arrangements for universities and its other funded higher education providers. The Higher Education Funding Council for Wales and Northern Ireland's Department for Employment and Learning joined the review but, importantly, the Scottish Funding Council for higher education did not. A consultation arising from the review has hinted at eliminating the need for the sector-owned Quality Assurance Agency in favour of individual university boards signing-off on individual university quality reports to their respective funding council, and putting a regulatory expectation on academic peer review of individual courses. The suggestions coming from the funding councils, while putting greater responsibility on individual university boards, could also result in much greater direct oversight of universities by the funding councils—assuming, of course, HEFCE is not abolished in the meantime.

To further complicate things, the new Minister with responsibility for higher education has announced the government will introduce a "teaching excellence framework," or TEF. The TEF is intended to mirror the existing UK Research Excellence Framework (REF). The Minister and his Cabinet colleagues feel that universities have been incentivized to prioritize research at the expense of teaching. Institutions whose teaching is deemed to be excellent through the TEF will be allowed to apply an inflationary tuition fee increase, thus creating the incentive to focus efforts on teaching (presumably provided that inflation eventually rises above 0.1 per cent).

On November 6, 2015, BIS released a consultation on revamping the entire regulatory architecture for higher education. The consultation green paper, *Fulfilling our potential: teaching excellence, social mobility and student choice,* includes recommendations on implementing TEF; addressing issues around widening participation in higher education; and creating a new primary regulatory framework for all higher education, including the publicly supported universities and the growing private sector of higher education provision. Furthermore, it calls for a liberalization of rules governing entry to the higher education market for new providers and the creation of student protections in the event of institutional failure. These proposals would necessitate a new Higher Education Act for England, something many commentators (including myself) have been arguing for over the last three years given the fundamental changes to funding for higher education in England. The consultation also signals that regulation of English higher education will move from a supply-side, sector focus to a demand-driven, market focus.

British isolationism

The UK appears to be on a path toward increasing isolationism, at least from a higher education perspective. This is driven by two separate, but related, policy debates: immigration and membership in the European Union (EU).

There is a desire in England for greater control over the UK's borders. The May 2015 general election highlighted concern over immigration as a major issue for campaigning candidates, and both the UK Conservative and Labour parties made commitments to clamp down on immigration. Despite the freedom of movement enjoyed by British citizens across the rest of Europe, there is a widespread perception that the UK is unable to accommodate European immigration. It is important to note that these feelings do not apply equally across the UK—the Scottish government has clearly articulated that it does not agree with the UK government's views on immigration and the EU.

The new Conservative government has committed to having a referendum on the UK's continued membership in the EU by the end of 2017, if not earlier. It has been suggested that a decision to withdraw from the EU should require approval in each of Wales, Northern Ireland, Scotland, and England. In the absence of a clear constitution, it is not certain how a EU referendum decision will be interpreted. Furthermore, given the Scottish government's desire to remain within the EU, an EU referendum result which directs the UK to withdraw may play a role in any future independence referenda in Scotland.

The UK government's approach to immigration and the EU impacts universities directly. It is increasingly difficult for non-EU students to secure visas to study at UK universities. The UK government has been downloading responsibilities for the policing of student and staff visas to universities. It has also implemented additional penalties on universities, as visa sponsors, when there are problems with visa students. The most serious of these penalties, losing the ability to sponsor visas for students and staff, is not an empty threat. The UK government has already stripped or suspended a few universities' visa sponsorship powers with serious implications for those institutions. Losing visa sponsorship, even for a short time, translates into lost tuition fee income (deregulated for international students) and signals that a university is a risky choice for students from abroad. Making it more difficult to sponsor international students and staff has a direct impact on the budgets of UK universities and the cultural diversity of UK university campuses.

Less well known are the losses UK university researchers are likely to experience if the UK withdraws from EU, including losing up to £2 billion ($2.8 billion CAD) in research funds the UK universities are expected to attract from European research agencies. Restrictions on staff movement and recruitment will also undoubtedly have a negative impact on the research capacity of the UK higher education sector. It is hard to imagine UK higher education coming through this period of increasing British isolationism not bruised and battered.

Conclusion

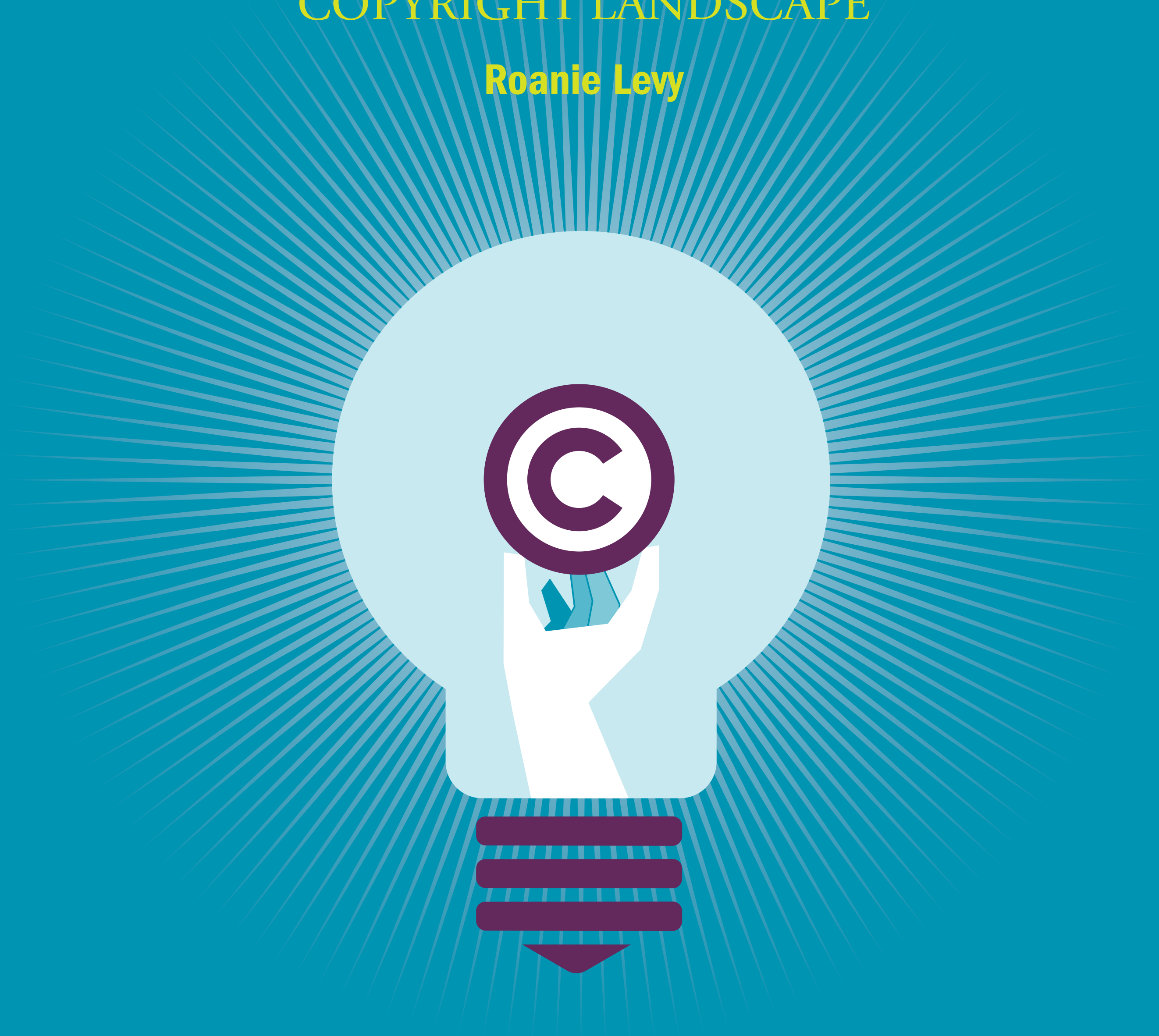
UK higher education is undergoing tremendous change. Increasing federalism provides new opportunities for policy lessons to be learned from other UK Home Nations, including how to design outreach programs, improve completion rates, and student enrichment. However, federalism could also present a threat to the existence of a UK higher education "brand" if measures are not taken to protect some aspects of a UK-wide higher education sector, rather than breaking up into Welsh, Scottish, Northern Irish, and English systems of higher education provision. Re-writing the regulation of higher education in England could lead to an increasingly diverse sector, creating more choice for students. Or, it could lead to chaos, failed universities, and students unsure of the future value of their credentials. AM

Andrew Boggs is a visiting fellow at the Oxford Centre for Higher Education Policy Studies

Access Copyright:

ADDRESSING THE NEEDS AND CONCERNS OF BOTH CREATORS AND USERS IN A CHANGING COPYRIGHT LANDSCAPE

Roanie Levy



Access Copyright has the infrastructure and expertise to best serve universities, says the organization's Executive Director Roanie Levy.

Access Copyright jouit de l'infrastructure et de l'expertise pour mieux servir les universités, a déclaré le directeur principal de l'organisation, Roanie Levy

For many, these royalties may be the difference between being a writer and not being able to continue to write.

When photocopiers became widely available in the late 1970s and early 1980s, people's ability to use and interact with print media was completely transformed. The printing press, more than 500 years after Gutenberg, had finally come face-to-face with a disruptive technology.

Suddenly we could conveniently copy a publication more cheaply than we could buy it, and we could deconstruct bound volumes to make use of specific parts. Any title we could put our hands on could be subdivided, remixed, and reproduced for little more than the cost of paper and carbon. A world of print had been unlocked to new uses.

"Gutenberg made everybody a reader; Xerox makes everybody a publisher."
-Marshall McLuhan (in 1977)

Those uses had particular appeal in education, where teachers gained the option to curate resources for their students. And it was in this context that the members of Canada's Book and Periodical Council, an umbrella group of Canadian creator and publisher associations, gathered to form Access Copyright in 1988.

There was no turning back on photocopying—the social benefit of convenient, flexible content uses for educators and students was undeniable. From the beginning, Canadian creators and publishers have sought to be part of the dialogue around changing uses and demands by responding with a pragmatic licensing solution for educational users rooted in our common interests in quality education and quality Canadian content for use in education.

Access Copyright's licences provide faculty the option to conveniently 'micro-publish' tailored, cost-effective course collections for students, while ensuring reasonable rewards for the creators of the content sources that support their teaching.

Since 2002, licensed usage has lead to royalty payments on more than 280,000 unique titles, the vast majority of them used in education. Since 1988, more than $400 million has flowed back to creators and publishers. A recent PricewaterhouseCoopers study found that the loss of these royalties would amount to a 20 per cent decline in the income an average creator earns from their work. For many, these royalties may be the difference between being a writer and not being able to continue to write.

There's no question that the content and copyright landscapes have changed since 1988, but in many ways we face some similar challenges today. When content moves over digital networks so effortlessly, it's often followed by the thought that it is, or should be, free. At these times, it is helpful to remember that the value of high-quality published works never resided in the paper and glue. Over the past decade content use in postsecondary education has been migrating away from centrally managed bookstores and print shops towards more customized solutions targeting student needs on digital platforms such as Learning Management Systems, where it continues to support student success.

Today, library e-subscriptions, Open Educational Resources, and Open Access journals have also become an increasingly significant part of the mix. However, these things do not represent the full spectrum of sources relied on by teaching faculty. Educators continue to need high quality, professionally produced educational content not covered by library subscriptions or open licences—and that is where Access Copyright can help in unique ways.

Access Copyright's licences provide pre-authorized permission to copy portions of most of the titles published in Canada and 28 other countries. That's over twelve thousand creators and publishers here in Canada, and many more through our agreements with collectives in other countries.

Unfortunately, many universities are now forgoing this existing infrastructure, which offers cost-effective permission clearances on millions of titles, in favor of building their own, internal permissions infrastructure and relying on contested interpretations of the fair dealing exception.

This means funds that might have been spent on a licence that offers the broadest permissions to the most people, while reinvesting in the content sources that faculty and students value, are instead flowing into administration infrastructure and costly, labour-intensive permissions processes with much narrower benefits both for the university and content creator communities.

The fair dealing content usage guidelines advanced by the Council of Ministers of Education, Canada (CMEC) and Universities Canada, as well as the various iterations adopted at universities, are a crude yardstick for making complex judgements around what should be a more contextual assessment. Not surprisingly, creators and publishers have concerns about this, but so do many teaching faculty and librarians.

Nothing in the new *Copyright Act* or court decisions suggests fair dealing is as simple or as well defined as being able to use anything below a specific percentage. Faculty and librarians find themselves in an awkward position between a limited capacity to clear permissions and guidelines that effectively download responsibilities to the individual faculty members who must rely on those permissions.

There has been an unfortunate breakdown in understanding and communication between Access Copyright and many universities. This needs to change. Renewing Access Copyright's partnership with the education sector remains vitally important to Canadian creators and content producers and to all those who read, teach, research, and learn.

We have reached out to these communities and invited feedback from teachers, librarians, and administrators. We listened to their concerns and their desire for change and committed to a top to bottom transformation to reinvent Access Copyright in the service of our customers. We will continue to invite dialogue and strive to better understand the copyright management needs of educators.

That commitment was demonstrated at the last Access Copyright Annual General Meeting when, for the very first time, our members reached outside their creator and publisher communities and elected two academic librarians and a leader in public K-12 education as board directors.

We recognize the efforts many institutions have made in the areas of content dissemination and the centralized administration of e-subscriptions. This has led to the launch of a new set of licence offerings, developed with input from institutions, and designed to provide better convenience, value, and flexibility.

The CHOICE Licence provides more flexibility and pay-per-use pricing for paper and digital uses. The PREMIUM licence offers more comprehensive coverage and permissions clearance services at a price of $12 per student for a five-year licence.

Notwithstanding disagreements about fair dealing, we believe many institutions will find value in either the PREMIUM or CHOICE licences. These new lower prices are a sincere attempt to find ways to continue working with the education sector.

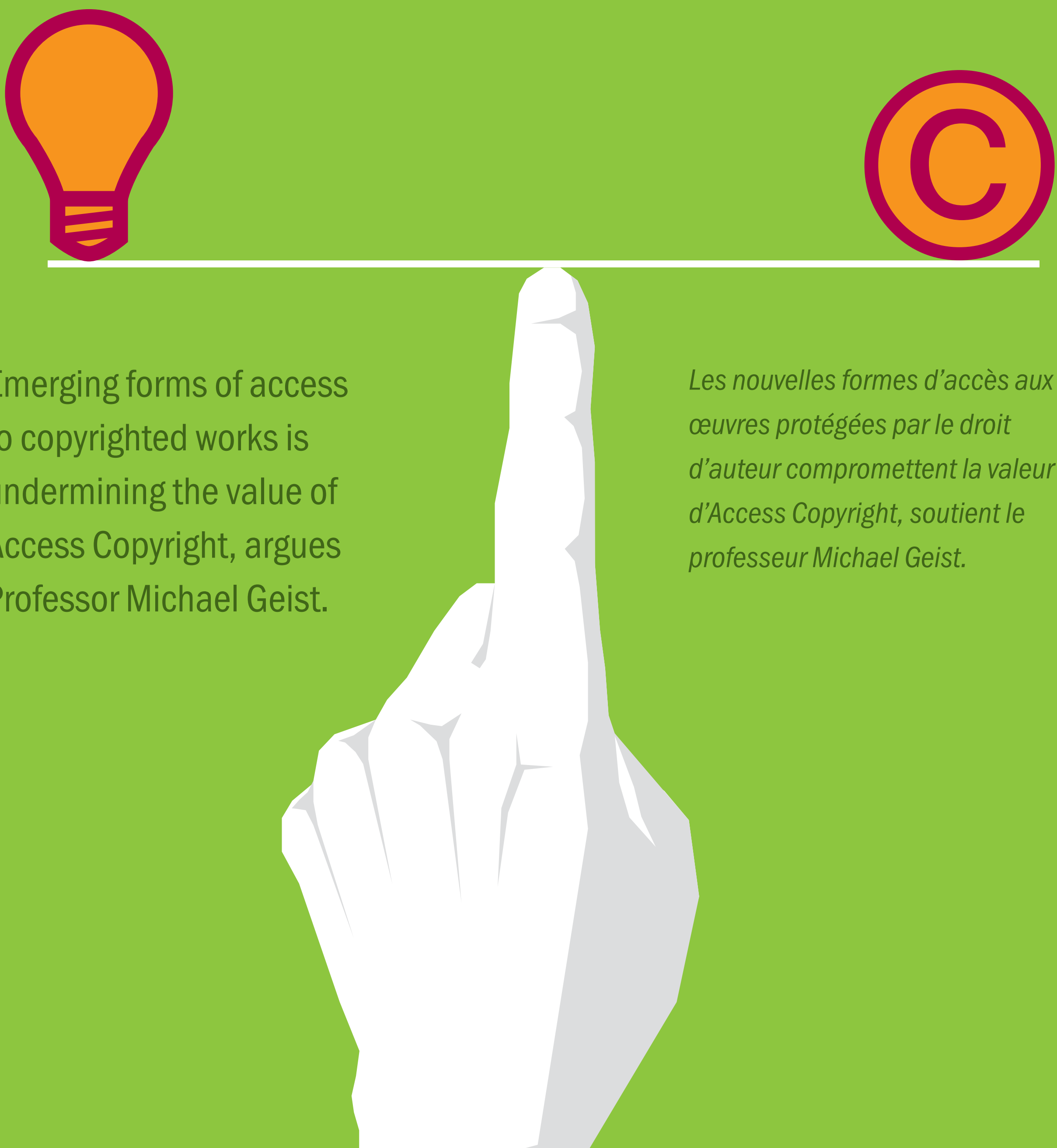
In the longer term, we are working to further enhance our offerings through the development of tools that help simplify the discovery, selection, management, integration of content, and associated permissions with e-Learning environments. We are working on pilots and trials to better understand user needs around the integration of copyright clearance and content access tools with digital platforms in order to bring content directly to educators, students, and researchers on the platforms they already use.

Access Copyright has the infrastructure, expertise, and rights to be of service to universities. However, we need to re-engage in a dialogue to properly understand how we can help. It's time we moved past disagreement and distrust and reconnect on common ground. Our librarians, faculty, and students deserve better. Our creators and publishers deserve better. AM

Roanie Levy is the Executive Director of Access Copyright.

FAIR ACCESS: Strikes the right balance on education and copyright

Michael Geist

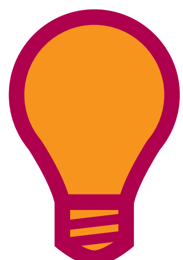


Emerging forms of access to copyrighted works is undermining the value of Access Copyright, argues Professor Michael Geist.

Les nouvelles formes d'accès aux œuvres protégées par le droit d'auteur compromettent la valeur d'Access Copyright, soutient le professeur Michael Geist.

The role of copyright within the Canadian education system was once an issue of interest to a relatively small number of scholars, librarians, authors, and publishers. With limited means to copy and distribute educational materials, the primary battle was over payments for photocopies of works that were distributed to students. While there were always disputes over the amount of compensation and the scope of fair dealing, educational institutions ultimately paid Access Copyright (formerly Cancopy) millions of dollars.

Driven primarily by technology and the Internet, the landscape for copying and distributing educational materials has changed dramatically over the past 15 years. New technologies have enabled the creation of massive databases of electronic materials, with institutions gradually shifting much of their budgets to electronic subscriptions to enable access to a far larger collection of materials than many libraries could purchase on an individual basis. The emergence of open access publishing, which allows researchers to make their research openly and freely available on the Internet, has become the standard in many disciplines. Copyright law has also undergone a significant shift as the Supreme Court of Canada has emphasized the importance of users' rights and the need for a broad and liberal interpretation of fair dealing.



The move toward open access means that global research is far more

For Access Copyright, the changing landscape has caused both the copyright collective and its customers to rethink the value of its licences. Access Copyright's initial response was to adapt its photocopying licences to the digital world with new offerings that could better account for digital distribution. However, those proposed licences failed to recognize the alternative mechanisms available to educational institutions to ensure legal access to works. Rather than accounting for the diminishing value of the Access Copyright repertoire, the collective sought to dramatically increase the costs of the licence. Those early demands, which would have required educational institutions to shift millions of dollars from new acquisitions and database subscriptions to collective licensing fees, led to a re-evaluation of the necessity of Access Copyright throughout the Canadian educational community.

New forms of access

In light of alternative forms of access, the strong endorsement of fair dealing by the Supreme Court of Canada, and the Government of Canada's 2012 reforms that removed any lingering doubts about the application of fair dealing to all educational activities, the higher education community shifted en masse away from Access Copyright. The emerging alternative model provides access in several ways.

First, educational institutions continue to pay millions of dollars every year to publishers and authors for access to their works. For example, the Canadian Research Knowledge Network (CRKN), a partnership of 75 Canadian universities representing 1.2 million researchers and students, has entered into thousands of agreements with publishers to offer access to their members. Last year, CRKN spent over $100 million in licensing fees for electronic content. Those licences provide access to an incredible array of electronic journals and primary source content in both the sciences and social sciences and humanities.

Second, higher education institutions spend millions more on their own site licences or on transactional licences that permit usage for specific works, while students still spend millions each year on books, whether paper or electronic. Although transactional licensing was long viewed as cumbersome and costly, the electronic environment has facilitated cheaper, faster licensing mechanisms that reduce overhead costs and allow institutions to ensure that payments are made where required.

Third, the emergence of open access publishing has enabled free access (as desired by the author) to millions of articles. According to a European Commission-funded report by Montreal-based Science-Metrix, more than half of all research publications in some countries and fields of study are now freely available online. The company found that countries such as the United States, Switzerland, Israel, and the Netherlands have all passed the 50 per cent mark for open access publication. Canada is on the verge of joining those countries, falling just shy at 49 per cent.

The shift toward open access becoming the default form of disseminating research in many fields is a remarkable change given that conventional publishing in expensive subscription-based journals was the standard in many areas of research as recently as ten years ago. The move toward open access means that global research is far more accessible to everyone—scientists, researchers, and the general public.

The availability of these licensed works (both paid and open access) are frequently incorporated into course materials at no additional cost to the student. In fact, institutions are paying for so many works that there is frequently a risk of double-payment. According to a Stanford University study in 2013, students were spending over $100,000 on course materials that the university was already paying millions to license.

New copyright rules

Access Copyright and its supporters argue that in addition to the millions being spent on access to materials, Canadian educational institutions should pay millions more for an Access Copyright licence to compensate for copying that falls outside of these new forms of access. Canadian educational institutions would undoubtedly acknowledge that there are works being used that fall outside these new forms of paid access. The issue, however, is whether the usage qualifies as either insubstantial (a small amount that the law says falls outside copyright) or as fair dealing. If either apply, the copying is permitted by the law and no further compensation is required.

With the Supreme Court having issued several important fair dealing decisions, the government having enacted fair dealing reforms that expands its scope, and the Copyright Board of Canada having issued a clear endorsement of a broad approach to fair dealing in the context of copying by provincial government employees, there is no dispute that the value of an Access Copyright licence has declined in light of the law. Indeed, Access Copyright has acknowledged as much by reducing its rates to account for "market uncertainty around fair dealing in education."

Where Access Copyright and the education community differ is in how much the law has changed. The Copyright Board of Canada, long a reliable ally of copyright collectives, ruled in 2015 that insubstantial copying constituted one to two pages of a work, not exceeding more than 2.5 per cent of the entire publication. In other words, where two pages are copied from a work of 80 pages or more, or one page is copied from a work of 40 pages or more, the copying is insubstantial and not compensable.

Fair dealing, which the educational community reasonably argues may cover up to 10 per cent of a work, lies on top of that. The Copyright Board rejected all of Access Copyright's key claims with regard to the applicability of fair dealing, painstakingly reviewing copy after copy to ensure that they were all fairly compensated. In fact, the Copyright Board even expressed reservations about the Access Copyright repertoire, noting that it may be claiming to represent works for which it does not have representative rights.

What comes next?

In light of the technological, marketplace, and legal changes, Access Copyright has endeavoured to update its public face. A refreshed website, a revamped governance structure, and revised licences are all intended to present a "new" Access Copyright. While the copyright collective speaks of a new era of partnership, it continues to rely on litigation and lobbying as the primary mechanisms to restore the relevance of its licence.

Despite resounding losses at the Supreme Court of Canada and before the Copyright Board, Access Copyright is pursuing litigation against York University over its copyright practices and seeking review of the Copyright Board's recent ruling. This continues a longstanding trend dating back to 2004 of dismissing the relevance of seminal high court decisions.

While Access Copyright battles in the courts, it can also be expected to increase its lobbying efforts to create new restrictions and limitations on fair dealing. The collective recently commissioned a study from PricewaterhouseCoopers (PwC) that supposedly confirms its claims about lost revenues in the publishing sector. Yet PwC acknowledged that it does not verify the information provided to it and disclaimed that "we provide no opinion, attestation or other form of assurance with the respect to the results of this Assessment." In fact, the report makes no reference to the 2012 Supreme Court of Canada *Alberta vs. Access Copyright* decision nor to users' rights, which now forms part of the foundation of Canadian copyright law.

Moreover, University of Toronto law professor Ariel Katz has comprehensively rebutted many of the economic claims upon which PwC relies. For example, notwithstanding claims of economic hardship from Oxford University Press, Katz notes that the publisher reports a tenfold increase in digital revenues and a string of new titles to help buoy sales.

The PwC "study", alongside more aggressive lobbying efforts, is likely aimed at entrenching the copyright term extension requirement found in the Trans Pacific Partnership agreement (that some estimate will cost Canadians billions of dollars), and placing fair dealing reform at the head of the line for the 2017 Canadian copyright review.

However, any review must account for the millions being paid by educational institutions for access and the modest interpretations of fair dealing law in Canada, which have resulted in copying guidelines that are still more restrictive than those found in some other countries. Indeed, a fair review of the current system reveals that the problem facing Access Copyright is not that copies are not valued, but rather that in light of new forms of access and the evolution of the law, its licence is no longer valuable. AM

accessible to everyone—scientists, researchers, and the general public.

Michael Geist holds the Canada Research Chair in Internet and E-commerce Law at the University of Ottawa, Faculty of Law. He can be reached at mgeist@uottawa.ca or online at www.michaelgeist.ca.

Editorial Matters

Graeme Stewart

The relationship between higher education and the state has always been a complicated one.

THE FIRST European universities, for the most part established through papal bulls, coexisted uneasily with secular authorities. They were located within kingdoms and nascent nation states, but they were not *of* those states.

In China, ancient universities were entrusted with training the bureaucrats that made imperial rule possible. They were very much organisms of empire.

As the modern university emerged in the nineteenth century, innovators like Wilhelm von Humboldt imbued the university with the ideas of *lehrfreiheit*, *lernfreiheit*, *and freiheit der wissenschaft*—the freedom to learn, to teach, and to conduct research. This was the foundation of academic freedom, a principle that still lies at the heart of our universities.

Guy Neave, an under-appreciated contemporary theorist of the politics of higher education, once observed that the relationship between higher education and the state is structured by the kinds of knowledge valued by those in power. In medieval Europe, the Catholic Church required education independent from secular rulers. In China, the Emperor needed competent administrators. Following the disaster on the battlefield of Jena, Prussian authorities realized the need for a university that could modernize all aspects of the nation, from science to the economy to the military. Hence, Humboldt was tasked with creating a new university—one in the service of the state's goals, but insulated from direct state control by the ideals of academic freedom.

These days, the demands of the so-called knowledge economy are again changing the relationship between universities and the state. The decline of traditional manufacturing jobs in the West—and the failure of governments to respond to this trend—has focused public policy on the need to train people to work in a post-industrial economy. Universities have become a key part of government economic strategy, and are increasingly admonished to produce more "job-ready" and "entrepreneurial" graduates, ready for the supposed high-skill, high-value, and high-tech jobs of the future.

At the same time, decades of neoliberal politics have created an environment where investments in public services like health care and education can only be justified through a barrage of (often arbitrary) metrics and performance indicators. No longer does government simply trust universities to teach students and conduct research with the funding they receive. Instead, higher education institutions must demonstrate their value—often defined in narrow economic terms—through increasingly byzantine reporting requirements and competition for funds. Guy Neave referred to this phenomenon as the rise of the "evaluative state." Its logic is being felt in all corners of our universities.

Coming to terms with these changes is not easy, and certainly beyond a single issue of this magazine. But we have pulled together some exciting authors and articles to shed light on the shifting relationship between higher education and the state.

Starting here in Ontario, Sue Herbert writes about the rationale for the provincial government's review of the university funding model, and provides some initial thoughts on what has been learned through the process. OCUFA President Judy Bates presents faculty perspectives on the funding formula review, highlighting key principles that need to be preserved in any new model and outlining OCUFA's recommendations to the review team.

Staying in Canada, Rob Clift gives us a disturbing case study from British Columbia, where inept government regulation of private higher education providers has had serious consequences for students. Jamie Brownlee argues that both federal and provincial governments have played an instrumental role in commercializing universities across the country.

Writing from the UK, Simon Marginson argues that higher education across the anglosphere is losing its ability to advance social mobility as societies become more unequal. Shifting to public policy in the UK itself, Andrew Boggs provides an important summary of the seismic changes occurring in that country's higher education sector.

Finally, as a special bonus to this issue of Academic Matters, we take a look at a subject that has become quite controversial in Canadian universities —the need for, and cost of, copyright licensing at higher education institutions. Roanie Levy, Executive Director of Access Copyright, argues that the organizations's licences are evolving to meet new realities. Michael Geist takes an opposing view, suggesting that copyright licences have lost their value in the face of new options and jurisprudence that clarifies the meaning of fair dealing. It's a thorny issue, and we're pleased to bring you two voices at the centre of the debate.

As always, we welcome your thoughts and comments on this issue. Send me a letter at editor@academicmatters.ca. Or, you can visit www.academicmatters.ca anytime to leave a comment and join in the online debate.

Thanks for reading. AM

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