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Shaping European universities

A perspective from the Netherlands

Stephan van Galen

Introduction

The governance of Dutch universities has undergone several significant changes over the past half-century, most of which find their parallels in other continental European countries. Major changes in governance structures have been implemented by successive Dutch governments seeking to deal with issues such as the sharp increase in numbers of students and staff from the mid-1960s, reform of university curricula in the 1970s, and the balance between academic freedom and accountability in the 1980s. The growth of Dutch universities between the 1960s and 1980s was a major impetus for change, as it was across the rest of Europe. This tumultuous period was followed by a period of relative stability and consolidation coupled with an only marginal increase or even slow decline in student numbers between 1990 and 2000; during this period, critical reforms of university governance have made Dutch universities more autonomous, flexible and innovative. In continental Europe, comparable reforms have taken place with the aim of strengthening the executive capacity of universities and to deal with the effects of mass higher education (Ritzen, 2010, p. 162). The reform agendas had a number of items in common, including the enhancement of institutional autonomy, the professionalisation of institutional leadership and administration, and the introduction of more competitive, performance-oriented funding models (Gornitzka *et al.*, 2017, p. 274; Hicks, 2012; Westerheijden, 2018).

The sustained growth of universities from 2010 onwards, and the market-driven and network-based mode of governance of the twenty-first century present challenges to Dutch and European universities, as their many stakeholders have divergent policy goals and expectations concerning university strategy and policy. This is of course one of the results of the success of universities, as Noorda (2018) has observed, 'they are seen as essential engines of development, fertile grounds for new generations of professionals, and indispensable providers of smart solutions to future questions' (p. 25). Governments have developed policies to improve the contribution of universities to the Knowledge Society, but, as we will see, these policies have met with only partial success (Van Vught, 2008, pp. 151, pp. 164–172).

In this chapter, I describe and analyse the development of university governance in the Netherlands from circa 1960 until the present, and argue that in the current multi-actor network-based mode of governance, a stronger role for the European Union in university governance as a supra-national agency could serve to further focus and strengthen the quality and impact of education, research and innovation of European universities. Universities operate in an international context, and the governance of universities should therefore also be reconsidered from this perspective.

The Bologna process, which aimed to introduce the bachelor-master system across Europe and to promote mobility within Europe, still lacks a European statute for universities and a single European Accreditation Agency. Bologna is potentially a boost to the competitiveness of European universities. However, the implementation seems too nation-specific, so that the transparency of European universities has not increased as much as could be possible. Transparency is important as the higher education market has some major imperfections. To correct these imperfections, credible and independent information is needed for students and society, so that they are able to judge the quality of education and research (Van Vught, 2008, p. 167). The current system of governance has rightly been characterised by De Boer *et al.* (2007) as:

> a complex jumble, more and more a hybrid combination of multiple coordination forms. It is a blend in which hierarchies, markets, networks and communities are conveyed without clear dominance of any one of them. Within these realities the university as an organization has come to the fore . . . as a corporate actor.
>
> (p. 30)

I conclude in the sections below that this corporate actor has been severely tied up in a bewildering web of contradictory government regulation, as governments increasingly realise the importance of universities to the development of society and the economy. The present system of governance of Dutch universities has as a result become increasingly incoherent and problematic. Universities, in short, run the risk of becoming unmanageable. I will argue that the 'Macron initiative' to create European universities could offer a way out of the jungle of recent policy reforms, as a first step to a new governance paradigm that takes into consideration the international character of universities.

Universities between autonomy and control

Dutch higher education has a binary system, which means that a distinction is made between research-oriented education and higher professional education. This difference in orientation has continued to exist after the introduction of the bachelor-master degree structure in 2002. Research-oriented education takes place primarily at research universities, *universiteiten*, and higher professional education at universities

of applied sciences, *hogescholen*. As well as the different objectives, each of the two types of education has its own admission requirements, programme duration and governance structures. The Dutch research universities are the only institutions of higher education in the Netherlands allowed to award PhD degrees. This chapter limits itself to the governance of government-funded research universities.

Independence

The post-war growth of universities resulted in 1960 in a significant change in the governance structure of Dutch universities. In 1960 universities got the status of an independent legal entity formally disconnected from the state as a result of the new law on Scientific Education, *Wet op het Wetenschappelijk Onderwijs*.

   This autonomy was nowhere more clearly manifest, or concrete, than in the transfer of legal ownership of university buildings from the state to the university. Although the state remained financially responsible for the upkeep and main-tenance of the buildings until 1995, those buildings were from 1961 formally owned by the university. Buying and selling, building new laboratories, lecture theatres or office space now became the prerogative of the university. Although it is clear from, for example, the archives of the University of Groningen that it took a while before civil servants from central and local governments really got to grips with the new reality (University of Groningen, 1961). Departments of planning and real estate were created at each university to assist and advise management on the complexities of real estate planning and development. In fact, universities had grown so fast that it had become unfeasible for central government to deal with the demands of university real estate on a central basis. The continuous and unprecedented growth of student numbers during the 1960s and the associated increase in the numbers of staff would however also end this new-found but rather short-lived autonomy. The state soon felt pressured to intervene in uni-versity policy, and a new order, characterised by an increase in state intervention, dawned at the end of the 1960s.

Table 5.1 Students enrolled at Dutch universities

Year	Students
1945	22,000
1950	25,000
1960	50,000
1970	100,000
1980	150,000
1990	190,000
2000	170,000
2010	240,000
2017	275,000

Source: CBS (2018).

Democracy

Universities in the Netherlands were until the 1970s governed by a *duplex ordo* consisting of a mainly honorific board of regents, *curatoren*, who oversaw the administrative side of the university; its tasks were de facto executed by the Secretary-General, *secretaris*, of the university, who was the head of the administrative staff, and on the other hand, the Senate, composed of full professors, who were in charge of education and research, chaired by the *rector magnificus*. According to Ritzen (2010), the Dutch university system 'very much resembled the Humboldt system of academic oligarchy' (p. 161).

The University Government Reorganisation Act of 1970 (*WUB*) fundamentally changed the nineteenth-century order at Dutch universities. The Act can be seen as a response to the May 1969 revolts at the campuses of Dutch universities, but from an international perspective neither student ideologies nor student tactics were really original. Students derived their ideas from the United States, Paris and Germany. Student agitation was, according to Daalder (1982), therefore far from original or persistent. The main driver behind the 1970 Act must be found in universities themselves. The increase in student numbers had led to a large increase in university staff. The Senate became unmanageable and younger staff members were generally excluded from the Senate. This led to cries for the professionalisation of the university on the one hand and the demands for more democracy on the other hand from junior staff (Daalder, 1982, pp. 178–180)

The 1970 Act introduced a condominium of two bodies, an executive board, *College van Bestuur*, and a university council, *Universiteitsraad*. The council was elected by and from three different constituencies, and one-sixth of its members were appointed by the crown on the nomination of the elected members from society at large. The executive board was a mixture of appointed and elected members. The law did not introduce 'direct democracy' nor did it present the university community with some sort of 'parliamentary' university government, but it had some far-reaching consequences. The Act, in short, navigated between introducing 'democracy' and 'management'.

The relation between the executive board and the university council was one of the most controversial issues in the implementation of the 1970 Act. Members of Parliament (MPs) demanded that the university council be the sole sovereign body in matters of university government and that the executive board should have no independent powers. They demanded a parliamentary democracy model. The executive board, however, got powers of its own and a guaranteed tenure for a fixed period. The board was to inform the council, but was not only responsible to the council, but also first and foremost to the Minister for the proper exercise of its powers (Daalder, 1982, pp. 173–175).

The relation between the university council and the executive board has changed significantly since 1970, but it has remained rather complex. From 1970 the powers of the executive board have increased step by step, as successive governments addressed the university as an independent entity. Steering university policy required a single addressee for central government, and the

university council embodied the anarchistic, devolved institution, which had proved immune to government interference. Interestingly, recent amendments to the current law have increased the influence of the university council again in an apparent attempt to curb institutional autonomy. The question remains for how long this trend can continue; by increasing the powers of the devolved institution central government automatically diminishes its own ability to steer university policy. A clear example is given by De Boer *et al.* (2007):

> In December 1990, the minister and the chief executive boards of the universities reached an official gentlemen's agreement after lengthy negotiations with respect to the main policy objectives (the so-called Hoofdlijnenakkoorden 1990–1993). However, this agreement could hardly be described as effective since a number of university councils, having the formal authority to do so, rejected the agreement. The then existing governing model of 'mixed leadership' of Dutch universities, in which both the executive and the elected councils had decision-making powers, created a situation in which the relevant minister could not make a credible agreement. In other words, the government's attempt to steer this sector were frustrated by not having an addressee.
>
> (p. 31)

The 1970 Act did not stop at defining the governance of the university at the central level, it also prescribed the internal organisation of faculties, with elected faculty councils and even further down the line so-called *vakgroepen* or academic disciplines organised in departments, which were to be governed by all academic and non-academic staff in a certain discipline in a *vakgroep* board. This complex structure was only fully implemented in 1982, after years of experimenting and drafting new rules and regulations on all levels. Faculty regulations required approval at the university level, and university rules needed approval from the ministry. Organisational autonomy, or the ability for institutions to decide on their own internal governance structures as well as to develop their own procedures to select their institutional leadership, is still limited across Europe in general. In many European countries, the organisational autonomy is restricted by national legislation, regulations and guidelines. In the other words, the state frames the organisational structure of European institutions to a large extent. Only a few countries in continental Europe have implemented reforms that have seriously transferred to the universities the power to decide on their internal governance structure (Daalder, 1982, pp. 176–177; De Boer, 2018).

   The fiction that central government could command and control university policy through the issuing of detailed regulations of course fitted the general opinion at the time that society was manageable, but nowhere was this idea more thoroughly embedded in legislation than in higher education. The expanding detail of interference by central government oversaw these changes by means of an expanding range of laws, decrees, procedures, regulations and administrative supervision.

At the same time, academic matters were almost exclusively the domain of the professionals. In fact, academic self-governance (regarding academic matters) and state regulation (regarding non-academic matters) went hand in hand (De Boer *et al.*, 2007, p. 29). The introduction of elected councils at all levels across the institution meant of course that university decision-making came to a virtual standstill during the 1970s and early 1980s. The system created by the 1970 Act was inspired by the concept of 'worker self-determination' as practised in communist Eastern Europe at the time. Almost all members of staff were automatically members of the departmental board. As a result, board meetings of disciplines, institutes or laboratories were often conducted in an auditorium. Everything had to be agreed upon by everyone, and as a result little was achieved. Willem Frederik Hermans, a lecturer in physical geography at the University of Groningen, as a literary author famous for his venomous pen, described university life in a bitter and satirical manner in an interview with the newspaper *NRC* in 1973 just before he left the Netherlands for his self-chosen 'exile' in Paris:

> Ever since the introduction of 'democracy' we are obliged to spend our time babbling in endless meetings. Imagine you need rubber bands. A day's meeting will not be enough . . . Any idea about the costs? A professor spending his days chattering? But anyway, meetings are not the only thing. After the meeting forms need to be filled-in, letters need to be written . . . all in all a waste of time and money.
>
> (Hermans, 1973)

The vision underlying the democratisation of university governance structures across Europe assumed that the performance of the university would be improved by reducing the influence of professors, and enhancing the involvement of non-professorial academic staff, administrative staff and students in university governance. The result was that after the 1970s, decision-making power was concentrated in democratically elected, representative councils. This implied that all major decisions, for example, in the budget and personnel areas, of the university leadership had to be approved by one or more democratic councils (Gornitzka *et al.*, 2017, p. 278).

Daalder (1982) concludes that more democracy within the university did not lead to more autonomy from central government; the new governance was the result of intervention from government in the first place. Central government engaged on the contrary in more detailed intervention in response to the challenge of increasing student numbers. The reforms that followed the 1970 Act did not make the universities more open to change, whether prompted from within or from the outside, and all the new regulatory powers did not provide government with more control, but they did have a paralysing effect on the universities (Daalder, 1982, pp. 208, 225).

Government introduced regulations in the early 1980s aimed to increase graduation rates, change the structure and content of curricula, push for

competitive research funding, and rationalise the overall cost of the system. Furthermore, a conditional research funding system was introduced, but this system met with little success. These policies are defined as remedial or corrective, and they represented a clear attempt to shift towards New Public Management (NPM) according to Westerheijden *et al.* (2009). The 1970s reforms did not provide an answer to the general dissatisfaction with higher education, and higher education became a hot political issue during the 1970s and early 1980s (Capano, 2018).

Autonomy

The second half of the 1980s shows quite another governmental approach. Instead of structural intervention, the emphasis was on the government stepping back and an increase in autonomy of higher education institutions. This indicates a fundamental change in the governmental attitude towards universities. It shows the loss of confidence in the government's capacity to centrally plan and control the higher education system and a willingness to take self-regulating capacities of Higher Education Institutions (HEIs) seriously (Van Vught, 1991, pp. 114–115, 126–127).

In 1985, a policy paper was published by the Ministry of Education, Culture and Science of the Netherlands (MOCW, 1985), the *Higher Education: Autonomy and Quality* (in Dutch: HOAK) document, setting out guidelines for a new reform strategy. Roel in 't Veld, the main author of this paper, applied new insights from NPM to higher education governance (McDaniel, 1997). This moment was a watershed not only in Dutch policy development but also in the evolution of higher education in continental Europe. This document was the first governmental declaration that the traditional strategy of command and control, which had characterised higher education for the previous century, had to be abandoned in favour of a steering-at-a-distance strategy. Autonomy and quality assessment were ideas/policy tools launched by that document and formalised by law in 1992 (Goedegebuure and Westerheijden, 1991).

In the HOAK document, a new steering philosophy as presented by the minister was deemed necessary because, according to the government, 'many in and around the higher education system are of the opinion that the present administrative and legislative higher education mechanism can no longer be considered optimal to meet the future demands which have to be placed on the system' (MOCW, 1985). The central concept of the philosophy presented is a substantial increase in the autonomy of the institutions through abolishing regulations, combined with the introduction of a system of retrospective quality control (Goedegebuure and Westerheijden, 1991, p. 500).

Since the mid-1980s, a number of important powers regarding financial policy were transferred to the universities. First of all, government subsidies were transferred as lump-sum subsidies, granting universities financial discretion. Central university management is allowed to cross-subsidise teaching and

research and to make their own distributions across their faculties and institutes. Regulations that had limited the use of income from sources other than the government were abandoned. On average, about 25 per cent of a university's budget stems from contract activities; at some universities, this percentage is more than 30 per cent. Moreover, a priori ministerial approval of university budgets was dropped, and universities were granted independent borrowing powers. Since 1987, the universities have the power to appoint the professoriate without interference from the central government. Working conditions and labour relations are negotiated through the Association of Universities in the Netherlands (VSNU) on behalf of the universities. Academics are no longer civil servants but employees of a university. Since 1992, universities also bear full costs of any severance pay. Another step in this development of university-controlled resources has been the abolition of government involvement in the planning and funding of new buildings and building maintenance. Universities have owned their buildings since 1961, but they bear full costs only since 1995 (De Boer *et al.*, 2007, p. 37).

The first half of the 1990s also saw the introduction of University Holdings, in which universities are the sole shareholders. The Holdings were a response to the growing importance of market-oriented activities. University Holdings are usually composed of several businesses or companies ('subsidiaries') that 'valorise' scientific knowledge. Through this 'privatisation' of activities that are linked to the university, Dutch universities react to the new task of 'valorisation' that the government allotted to them (De Boer *et al.*, 2007, p. 37).

Universities, however, never received self-accrediting powers, also part of the HOAK philosophy, and consequently always needed government consent when starting new programmes.

The law *Modernisering Universitaire Bestuursorganisatie* (MUB) modernised university governance. The law was proposed by the then Minister of Education Ritzen in 1997, it was a further step towards more flexibility and autonomy for universities. Professional boards were introduced at both the central and faculty level, and management was no longer regarded as a part-time job. The role of 'councils' in decision-making was reduced from co-deciders to advisers with a strong influence. The law created full accountability for the administration towards society. The administration was placed in the hands of an executive board of three members, to be selected by a supervisory board of five members appointed by the minister (Ritzen, 2010, pp. 169–171).

Greater accountability also means that higher education institutions have to redefine the ways in which they inform their stakeholders about their performances. The introduction of accreditation and the development of performance agreements should therefore be seen as a natural result of the development of a more independent university at the start of the twenty-first century. In the next two sections, the introduction and effects of accreditation and performance agreements as new tools for government steering through networks of stakeholders will be described.

Accreditation

The biggest change in the higher education system in recent years was the introduction of the bachelor-master system in 2002 in order to increase students' international mobility (MOCW, 2018). In 2002, accreditation was introduced simultaneously to assure the quality of the new degree programmes. From 2003, the Accreditation Organisation of the Netherlands and Flanders (NVAO) has been responsible for the validation of all degrees in the Netherlands and Flemish-speaking Belgium.

In Europe in general, a similar evolution of governance systems took place at the same time, involving actors from various levels outside central government. Authorities and powers in higher education systems have consequently been redistributed across these levels (De Boer, 2018). In many countries, coordination has changed from a classical form of regulation dominated by a single actor, the state, to forms in which various actors at various system levels govern the system, like in the Netherlands and Flanders, for instance, the NVAO. Thus, in the Netherlands and in Europe, enhanced institutional autonomy has taken place together with higher levels of accountability, and more stringent and detailed procedures for quality assurance have been introduced.

In 2011, the Netherlands introduced a so-called institutional audit as part of a new two-tier accreditation system. This system aims to focus quality assurance and accreditation in higher education more exclusively on the content of the programme and learning outcomes and is intended to reduce the administrative burdens of internal and external quality assurance processes (Jongbloed *et al.*, 2018a, p. 672).

The aim of the institutional audit is to determine whether or not the executive board of an institution, on the basis of its vision regarding the quality of the education it provides, has in place an effective system of quality assurance that can guarantee the quality of the programmes. The central question is whether the executive board is 'in control', and as such the introduction of the institutional audit perfectly fits the steering-at-a-distance philosophy introduced by the HOAK paper and the MUB. This revision of the accreditation system should also have increased academic ownership of quality assurance systems within higher education institutions and have introduced a 'light touch approach' based on 'high trust' earned during 25 years of external quality assurance procedures introduced after the HOAK paper in 1986 (Van Galen *et al.*, 2013, pp. 1–25). In these 25 years, the system has undergone a profound shift from quality enhancement to accountability. The new two-tier accreditation system was intended to steer back to a more quality enhancement-led approach (Van Galen *et al.*, 2009, pp. 1–5).

The initiative for the revision of the accreditation system in the Netherlands came during the summer of 2007 from the Dutch Minister for Education Plasterk. The need for a revision of the system was broadly felt in the Netherlands. From the perspective of HEIs, accreditation focused too much on procedures and processes not directly relevant to education, was not cost-effective, and was felt to

be too bureaucratic. HEIs felt that the system had become geared too much towards accountability and had almost lost the important enhancement function. From the government perspective, as well as from the perspective of politics, accreditation was not flexible enough to be able to react quickly to public concerns about quality issues in higher education. Students felt that accreditation was helpful in eliminating programmes that did not meet standards, but were also concerned that accreditation was focusing too much on the procedural end of quality assurance. Prior to 2007, this uneasiness with the accreditation system had initiated a debate, led by the Dutch Association of Universities (VSNU), advocating the adoption of institutional accreditation, leaving the assessment of individual programmes to the internal quality systems of HEIs. These proposals were not accepted by politicians and students (Van Galen *et al.*, 2009).

After having conducted a thorough study of the development of accreditation processes on the institutional and programme level in several other continental European countries and having identified the strong and weak points of these systems, the first step taken by NVAO was to involve its European partners in the development of the basic set up of the system. In the discussion with the international partners, it became rapidly clear that many quality assurance systems in Europe are moving towards a mix of institutional review and programme assessment and seem to be converging towards a combined approach where institutional review and programme assessment complement each other (Van Galen *et al.*, 2009). In Europe today, there is a general consensus about the design of external and internal quality assurance systems. The 2015 *Standards and Guidelines for Quality Assurance in the European Higher Education Area* (ESG) from the European Association for Quality Assurance in Higher Education (ENQA, 2015) reflect this consensus. A single European accreditation agency under EU law would be a significant step forward in the Bologna process as it can substantially increase transparency on the quality of provision and will certainly stimulate and facilitate mobility of staff and students within the EU (Jongbloed *et al.*, 2018b, pp. 445–447). The proposed agency can build upon the work of ENQA and the European Quality Assurance Register for Higher Education (EQAR).

Performance agreements

The introduction of performance agreements in 2012 is, like the introduction of accreditation, another example of the emergence of networked governance. This development was described by Jongbloed *et al.* (2018b, p. 444) as the result of the diversity of needs and approaches, combining state supervision with increased autonomy for institutions with a new focus on local networks of students, stakeholders and government authorities. Networked governance relies more on negotiations, collaborations and partnerships, it widens perspectives from NPM's focus on efficiency and effectiveness to include public values such as social equity, societal impact and value from knowledge (Jongbloed *et al.*, 2018b, pp. 441–444), and as such can also be seen as the next step in the development of NPM.

It should be noted that, of course, a substantial part of a university's block grant has always in some way or another been tied to performance, as student numbers and numbers of degrees granted have for a long time already been part of the nation-wide funding mechanisms.

The new performance contracts tie a small part of the funding of universities to targets agreed beforehand with government. In the Netherlands, universities made agreements on increasing diversity in terms of degree programmes, student success rates, teaching qualifications for research staff, and, for example, the percentage of students participating in honours classes (Jongbloed *et al.*, 2018a, pp. 677–678).

The introduction of targets is the new element in the performance-based approach. For the period 2012–2016, 7 per cent of the core grant for education, or about €130 million in total, was included in the agreements. An independent review committee was installed by the Minister of Education to oversee the performance agreements. The committee concluded in 2016 that many universities had achieved substantial success in meeting their targets. Completion rates had risen on average from 60 to 74 per cent, and dropout rates declined. The second objective, to stimulate diversity of provision, met with less success (Jongbloed *et al.*, 2018a, pp. 678–684). This should not come as a surprise as in the complex environment of university governance it is much harder for executive boards to force academics to introduce new study programmes and open up new avenues for research in areas desired by central government. The fact that the state has by law attributed responsibility for the quality of education directly to deans of faculties and also granted elected faculty councils co-decision rights on this subject makes central intervention in this area of course difficult. The law governing higher education is also, on the one hand, centred around the concept of a degree programme, and accreditation still takes place at the programme level. This can be viewed as to be in conflict with the settlement of many powers, on the other hand, at the top level. As De Boer (2018) already concluded, 'in Europe in general one can witness a growing recognition that relationships in higher education are extremely complex and dynamic, involving actors from various levels outside central government. Authorities and powers in higher education systems have consequently been redistributed across these levels' (pp. 2–3). This recognition has however not been met with a new and coherent approach by government in the design of new policy initiatives such as the performance agreements, and as such they can develop into a major barricade obstructing effective government steering (Van Vught, 2008).

Although Jongbloed *et al.* (2018a, p. 684) conclude that the performance agreements have met with a general approval by the public, the reception in parliament, by students and the universities, has been mixed. The focus of the agreements of indicators and targets has received much criticism and was one of the reasons that sparked the most serious riots since the 1960s at the University of Amsterdam (Gornitzka *et al.*, 2017, pp. 274, 280). The next round of performance agreements will as a result be rebranded as Quality Agreements, stressing

the fact that the agreements should enhance the quality of provision for students. The Review Committee will be superseded by NVAO, de facto creating a higher education authority. It can be questioned if the rebranding of the agreements will fundamentally change their character, and it is also questionable how the effectiveness of central steering by the executive board will be increased. A new measure to increase this effectiveness is the requirement to include the university council in the drafting of the agreements. How effective this will be has to be seen. The fact that the composition of the university council changes every year leaves a large question mark in this respect. Apart from this, the university council bears no executive responsibility and is not accountable to government.

University management

The governance structure of universities in the Netherlands, including the formal appointment procedure of the members of the universities' supervisory board and executive board, have been laid down in the Higher Education and Research Act (WHW). There are three governing bodies at the central level: a supervisory board, *Raad van Toezicht*, consisting of a maximum of five external members, an executive board, *College van Bestuur*, consisting of a maximum of three members (including the rector), and the university council, *Universiteitsraad*, an elected representative body for staff and students. Universities can determine themselves whether or not to split the university council into two separate councils for staff and students. In essence, this is a clear example of the Rhineland-model of a two-tier board, with a representative council of elected students and staff for co-decision making. A Dutch speciality is the collegial board, where board members have an equal vote; the President's vote only decides when no majority can be found otherwise. The supervisory board and the executive board both operate on the basis of these principles. The principle of the collegial board means that board members work and operate on a more or less equal footing. It also means that sometimes the *Rector Magnificus* is the de facto chair of the board, although this position is normally reserved for the president of the board. Some universities have experimented with a system in which the role of president and *Rector Magnificus* are combined in one person, keeping the total number of board members at three.

Supervisory board

Supervisory boards were created after 1995. The five members of this council cannot be active politicians or (senior) civil servants from central government, and are generally CEOs of (large) multinationals or hospitals, senior judges, or directors of cultural institutions. The supervisory board of a public university is appointed by the Minister of Education, Culture, and Research. The appointment of a member of the supervisory board has to be made on the basis of a job description and profile that has to be submitted for advice to the university council.

In practice, the appointments of members of the supervisory board are made more or less on the basis of co-optation. Civil servants at the ministry do not intervene in the process, and the selection of candidates is left to the supervisory board itself, although the possibility exists for ministers to intervene in the process, and some ministers have indeed done so, some appointing 'political friends'. The university council has the right to nominate a member of the supervisory board. This nomination should consist of more than one candidate. The member nominated by the university council has the so-called 'special confidence' of the university council.

The supervisory board's main role is to oversee the work of the executive board and to advise the board. The supervisory board appoints and dismisses the members of the executive board, designates the chairperson, and determines the amount of the remuneration of the executive board within the limits of the law. It approves university statutes and bylaws, the budget, the accounts, the annual report, and the strategic plan. From 2010 the board is also responsible for the internal system of quality assurance (WHW art. 9.8). If and when the supervisory board neglects its duties, the Minister can force the board to act and issue them a directive (WHW art. 9.9 and 9.9a).

Appointment procedure: executive board

The supervisory board has to consult the university council in a variety of ways before it appoints one of the three executives. The law is however quite unclear on the precise involvement of the university council in the procedure as frequent changes of the WHW since 1997 have resulted in a legal structure that is sometimes contradictory and outdated. It is, for example, unclear how many times and at which moment the university council should be involved in the appointment procedure, and what their rights precisely are (WHW art. 9.3-3, 9.33a-3, 9.40).

The appointment of a member of the executive board has to be made on the basis of a job description and profile that has to be submitted for advice to the university council. The supervisory board subsequently appoints a selection committee. The university council has the right to nominate two members of this committee, one nominee representing the students and one representing the staff. The number of committee members taking part in the selection process is not prescribed and is left to the discretion of the supervisory board. The selection committee advises the supervisory board on the appointment of a candidate, but the supervisory board decides in the end whom to appoint, but not before the supervisory board has again consulted the university council on the proposed appointment. Ministerial consent or approval is not required for the appointment of members of the executive board. More detailed procedures about the nomination and appointment of executives can be laid down in university bylaws. The WHW explicitly indicates that, for example, the supervisory board can consult the deans before taking a decision on the appointment of the rector. The law thus provides an opening for the involvement of deans in the process, but at the same

time it is not clear how this special involvement of the deans is to be reconciled with the formal procedure described above. In sum, the appointment procedure for members of the executive board has become almost unmanageable and leads to confusion of the roles of the different stakeholders. The university council has gradually been granted more influence in the process, but earlier and overlapping and conflicting rights of this elected council have not been removed from the law when new features were added, leading to a cumbersome procedure in an already delicate process.

Executive board

The executive board is charged with the management and administration of the university as a whole. The president of the executive board is the legal representative of the university. The board appoints the deans, who have full authority in faculties. The board also appoints the director(s) of the administration and services who in turn control those departments. The executive board was in full control of the budget until 2015, but recent changes to the WHW have re-introduced co-decision powers for the university council. The council has now the right to approve the outline of the budget. However, the law does not specify what has to be considered an 'outline' and what not. The second round of performance agreements, or 'quality agreements', have to be made with the Department of Education by the executive board in joint agreement with the university council. This has partly reintroduced the situation of the 1970s in which university decision-making can be brought to a standstill if there is no agreement between the university council and the executive board. As a result, central government will also lose the ability to steer the university from a distance as it is not clear who is actually in charge, and, as mentioned earlier, frequent changes in the composition of the university council will also affect the commitment of the council to agreements made by predecessors.

University council

The members of the university council represent the academic community. They constitute the highest democratically elected body within the governance of the university. Delegates are elected by the students from their midst. Staff elect an equal number of representatives from among them every other year. The members jointly appoint a chairperson – either or not from their midst (University of Groningen, 2018). Universities can choose to replace the university council with separate councils for staff and students, in which case there is an obligation to convene delegates from those councils in a joint meeting when discussing university strategy, or for example the budget. This then results in three councils instead of one (Radboud University, 2018).

The university council consults with the executive board regarding university-wide policy on teaching, research, finances and human resources. The council

provides the board with solicited and unsolicited advice and has the right of consent on university strategy, quality assurance, university bylaws and statutes, labour conditions and several other topics. The council also has the right to advice on a variety of other issues (WHW 9.33 and 9.33a).

A governance jungle

Capano (2018) showed that between 1988 and 2015 'the Dutch government has clearly and repeatedly stated the goals of its design' (p. 687). These goals consist of an increase in the graduation rate, the internationalisation of the system, and profiling and institutional differentiation. The emphasis may have changed over time; however, the same basic goals have been pursued and effectively communicated to universities. As noted above, in the last few years government policy in the field of university governance has however become unclear and contradictory (Westerheijden *et al.*, 2009). It seems, thus, that there is no such clear vision on the direction of governance in higher education that relates to the wider policy objectives of the government in the development of the knowledge economy. On the contrary, increased autonomy and consumer sovereignty or the relative privatisation of higher education have failed to consider the importance of reputation and the race to the top. According to Van Vught (2008), the dynamics of higher education are first and foremost a result of the competition for reputation. Reputation brings in resources, and this leads to an increase in mimicking behaviour amongst HEIs (pp. 166–172).

Apart from the examples given in the previous sections, there are several more occasions in which government policies enacted in recent years will lead to indecisiveness at the university level. One major example is that, instead of introducing institutional accreditation, which should have been the logical consequence of the introduction of the institutional audit, and which would have been the jewel in the crown of the Ritzen reforms of 1997, Minister Bussemaker, in carrying out the student-loan policies of her liberal predecessor Zijlstra, re-introduced co-decision rights on 'the main items' of the university budget for the university council, without describing what is meant with 'the main items'. This is perfectly in line with the theory of a networked governance, but a serious impediment to an effective executive. Another example is a recent law providing co-decision powers to the representative programme boards that overlap with the powers of the elected faculty council. A situation has been created in which two representative councils composed of staff and students can hold each other hostage if they do not agree on certain rules and regulations over which they have co-decision authority. Ironically, the 2016 law was christened the 'Law on Enhanced Governance'. Admittedly, amendments to the law, like the one discussed immediately above, were not a result of a conscious government policy, but rather the result of spontaneous interruptions of activist MPs, but government caved in to the demands of parliament, and in doing so it has created all the circumstances that make it possible for a university to spiral out of control.

This return of overregulation and micromanagement can seriously hinder the successes of higher education. I believe that more autonomy within higher education will improve the performance of our institutions and, as the result of that, of the higher education system overall. The rationale for this belief rests on the autonomous higher education institution being able to control and steer its outcomes and performance. The reforms of the past few years are a serious obstacle in this respect. Noorda (2018, pp. 25–26) observed that autonomy is the *conditio sine qua non* of universities; how could they otherwise have the capacity and freedom to inquire, to teach, and to criticise or approve? But Noorda also, and rightly so, states that universities should 'realise that they are partners in a social contract'. Governments and society at large have realised that universities are too important to be left alone. This should be seen as the main reason behind increased government regulation in the last decade. Therefore, it should be noted that university autonomy is not carved in stone forever. Universities are bound and steered by the dynamics of economic realities, political preferences, business priorities, and social diversity (Noorda, 2018, pp. 25–26). In general, this means that we need to find a new trade-off between autonomy and accountability in the design of the governance of higher education. The big question is whether or not this new solution can be found at the national level, or should be constructed in the context of the international arena in which universities operate today.

European universities

The European Universities initiative, as first outlined by the former Dutch Minister of Education Jo Ritzen in 2010 in his book *A Chance for European Universities* and, perhaps unconsciously, embraced by the French President Emanuel Macron in a speech at the Sorbonne in 2017, presents a way of strengthening and deepening existing successful university collaborations. It is also an opportunity to form new partnerships across Europe (Ritzen, 2010). The idea of the European university is a significant opportunity to bring the governance of European universities more in line with their increasing European character and enhance and bolster their effectiveness and role in European society as promoters of European citizenship and producers of high-skilled graduates. Although the Macron version of the idea of a European university is perhaps the result of a 'quintessential' French solution to tackle institutional change in higher education; to add a new category of institutions to affect institutional change on a larger scale.

The European Universities initiative could be the basis of a new contract between Europe and its universities. It can build on the role of universities as engines for innovation and policy impact, and improve the quality of education and research by pooling resources. These communities of universities can further reinforce the interchange between research, teaching and innovation, and strengthen the institutional excellence through the exchange of people, knowledge and ideas in a trusted space. Establishing deeper collaboration will also

provide a great opportunity to foster European identities and contribute to the education of a more internationally minded and flexible workforce.

The European Universities initiative will enable universities to jointly develop new and transformative strategies for becoming truly European, through networks that each have their unique selling points and a mission to act as models for the university sector. To enable this transition, universities need a European statute with a single principal: the European Commission, and a European-wide accreditation and quality control system. Ritzen (2010) has suggested that a special statute for European universities can contribute to a solution; the university would be accountable to a single agency related to the European Commission. Such a European university then should retain its block grants originally allocated by national government, but have them transferred to the independent European agency. It also should be able to compete for research grants in all European countries (Ritzen, 2010, pp. 128–129).

Conclusion

For Dutch universities to be effective, they need autonomy, a clear strategic focus, and a strong commitment to deliver on their objectives in a continuous dialogue with their stakeholders. The introduction of a European statute with European quality control and accreditation can maximise the impact of universities in a European context. The professionalisation of the Dutch university sector over the last 50 years has made these universities world-class providers of education and research. The current trend in Dutch politics to reintroduce elements of the 'workers' paradise doctrine' of the 1970s will seriously harm the quality of provision in the Netherlands and undermine the leading position of Dutch universities, as it can cause a standstill in decision-making processes. The EU initiative to create European universities can offer a way forward for institutions that have already become truly international. It is crucial that universities participating in the European Universities project share a joint vision for the future, and that the underlying objectives of organisational integration and of creating educational quality are defined from the beginning. The networks must be governed with maximum effectiveness and minimum extra bureaucracy. The governance of the network could at the start be based on regular meetings by the university leaderships, which would take ownership of the network's success. To distinguish themselves from traditional types of university partnerships, networks of European universities should commit to the creation of a common pool of physical, virtual, intellectual and administrative resources to be used by their communities.

In order to be successful, the initiative must be bold and ambitious and build on a concerted action from universities, governments and EU institutions. The support should not only cover the provision of long-term funding but also a commitment to achieve mutual recognition of degrees and resolve barriers to mobility as well as differences in quality assurance that exist between many European countries. The governments and national agencies should enable

enough flexibility for the piloting of solutions leading to the interoperability of regulatory environments. In sum, the European Universities initiative should reflect the fact that universities have become truly international institutions, in search of a new 'social contract'.

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