



# CHAPTER 2

## **CHAPTER 2**

# **NATIONAL HIGHER EDUCATION LEGISLATIVE FRAMEWORK**

### **2.1 INTRODUCTION**

This chapter examines in detail the underlying national legislative imperative for the currently transforming higher education system in South Africa. The 1997 Education White Paper 3, set as one of its major transformation conditions, the requirement that the South African higher education system must respond to the critical national development needs. Following on the Education White Paper 3 is the Higher Education Act of 1997, which sets the legal framework within which institutions of higher learning as well as other stakeholders would have to operate. The higher education system is currently at an implementation stage where we have to see if there is compliance, and what are the underlying challenges ahead in this complex task.

The purpose of this chapter is to draw from the stipulations of the Education White Paper 3, the Higher Education Act 101 of 1997 and the SAQA Act 58 of 1995 together, to justify the need for greater accountability and efficiency in the system through the development of quality assurance mechanisms. The chapter briefly highlights the trends elsewhere in the world where the involvement of the state in the reconfiguration of the higher education system had taken place, and to determine what the competing pressures on higher education are globally?

The motivation for this approach is that the legal framework provides a solid base for institutional governance structures to become aware of what the expectations are, i.e., is the composition of these structures in accordance with the Act and institutional statutes, are quality assurance arrangements in place, are the fiscal requirements, etc. in accordance with the stipulations of the Act? It also makes it possible for the state to make reasonable interventions without undermining the founding principles of the academe, namely, academic freedom, institutional autonomy and a vibrant research culture. Different structures of governance at both systemic and institutional levels are also discussed in the context of transformation.

The chapter also lays the basis for the empirical data analysed in chapters 6 and 7 to show that the hypothesis formulated in this study is in response to the research question: **'How do transformed institutional governance structures influence quality assurance mechanisms in South African Higher Education?'** In order to systematise the discussion, this chapter firstly looks at the historical overview of higher education transformation. Secondly, it tackles the pressures facing higher education in South Africa currently. Thirdly, it provides an exposition of the Education White Paper 3 by giving background thereto, and lastly the governance framework followed by structures at systemic levels are discussed. This discussion is an attempt to demonstrate what the issues prior to the 1997 dispensation were in respect of governance and quality assurance arrangements.

To elucidate thoroughly, the role of the former Quality Promotion Unit of SAUVCA is explained as well as that of SERTEC. An analysis of the institutional governance structures focusing on their powers and functions is extensively done for each structure including the Student Representative Council and the Principal.

## 2.2 HISTORICAL OVERVIEW OF HIGHER EDUCATION TRANSFORMATION

The involvement of the state in higher education matters is not unique to South Africa. The tradition that institutions of higher learning should be left to go about their educational business without external interference has ended. Institutions of higher learning are being called upon to account for their activities. In Australia, higher education institutions, as a response to this increasing demand to be "held to account", are being pressed to provide increasing amounts of data to co-ordinating authorities such as State Boards of Advanced Education and the Tertiary Education Commission. The data is generally produced under the rubric of "*efficient allocation of resources*" both among institutions and within an institution's competing departments or areas of need (Ramsey & Howlett, 1979: 58-59).

In the United States of America, the period from 1957-8 to 1967-8 began with a primary emphasis on quality but became the period of the most rapid expansion in the history of higher education. Millard, in Berdahl et.al. (1991: 61), contends that "in this process of expansion, while quality remained a major concern, access was provided to a far wider range of students than ever before". Consequently, the advent of Sputnik in 1957 brought about a realisation to increase the human resource base and the reinforcement of the quality of education, particularly in the sciences, engineering and technology. In both instances above an attempt is made to illustrate the involvement of the state in issues of quality and governance in higher education elsewhere. This is a phenomenon that seems familiar in the new dispensation in higher education in this country.

According to Moodie in Berdahl, et.al (1991: 75) in Britain, universities have been legally autonomous bodies for a considerable period of time. There has been, however, increasing external pressures, and even direction, which might in the

next few years yet further and substantially modify the political reality of autonomy. The creation of the Department of Education and Science and the transfer from the Treasury in 1964 marked the end of the hands-off approach to university finance. According to Wagner in Schuller (1995: 16),

*"The era of pushing a cheque through the letter-box and walking away was over. Governments and their funding agencies wanted increasingly first to knock on the door, then to open the door, then to peek inside, then to walk inside, then to observe what they saw, then to ask questions, then to expect answers, then to suggest changes and then to change the size of their cheques if the changes did not occur".*

In another sense, Halsey (1995: 302) makes an acknowledgement that:

*It is difficult to disagree with Martin Trow that in the last ten or twelve years British higher education has undergone a more profound reorientation than any other system in the industrialized world.*

This, yet again is an illustration of the extent to which governments are serious about accountability and transformation in an attempt to get value for money from institutions of higher learning. The South African higher education system is confronted by almost similar pressures, and it is for that reason that governance structures are expected to influence the quality assurance mechanisms with the view to a long term impact in the higher education sector.

## 2.3 PRESSURES FACING HIGHER EDUCATION IN SOUTH AFRICA

An international perspective summed up by Singh (1999: 6) is that the last two decades have been characterised by a rapidly changing educational environment, which the transformation agenda must take account of. The difficulties imposed by the transition to a democratic society in South Africa are the following:

- dramatic growth in Technology and Information Sciences
- globalisation and increased competition
- demand for wider educational provision and an expanding higher education system
- demand for a workforce that is better educated
- a significant shift from an elitist system of education to mass education
- **concern for quality and standards in education**
- **demand for accountability** (by the public and the tax payer, by government, by employers, by parents and students, by those who are now studying more and more away from traditional, residential campuses)
- **declining resources** worldwide from the state for higher education ( and the call to "do more with less") (Singh, 1999: 6).

The schematic outline of the increasing pressures facing higher education can be illustrated in the manner that is depicted in figure 2.1 below. Firstly, the government faces a daunting challenge of funding the higher education system appropriately and adequately, and this is evidenced by "the need to revise the existing funding formula which seems to have a number of flaws" (SAUVCA / CTP, 1999: 1- 24). Consequently, the recommendations of the Task Team on the size and shape of the South African higher education system, which seems to be based purely on economic principles rather than developing greater complementarity between the economic and humanising goals of society (CHE, June 2000: 26).

Secondly, the South African higher education market is challenged by private providers of higher education, hence the announcement by the Minister of Education Professor Kader Asmal for a moratorium on the further developments of satellite campus facilities and stringent registration requirements for private higher education institutions (Dept. of Education circular, 1999). Pressures of globalisation and competition also have a bearing in the decline in student enrolments for the entire higher education sector as opposed to the projections of the NCHE in 1996.

The NCHE's analysis followed the UNESCO technique of showing total enrolments in higher education as proportions of the total of the population in the age-group 20- 24 years. In its determination of the participation rates, the NCHE used population figures derived from the 1991 census and higher education student head count enrolment data for 1993 (Cloete & Bunting, 200: 14). It concluded that South Africa's gross higher education participation rate in 1993 was 19%; a proportion which was considerably higher than that of many developing countries, but considerably lower than that of some fast developing countries. It appears now that this NCHE estimate was too high, and this is still a surprising phenomenon since the 1996 census figures for the 20- 24 age group suggest a gross higher education participation rate of about 15%, and the head count student enrolment in universities and technikons increased by nearly 20% between 1993 and 1999 (Cloete and Bunting, 2000: 14- 15).

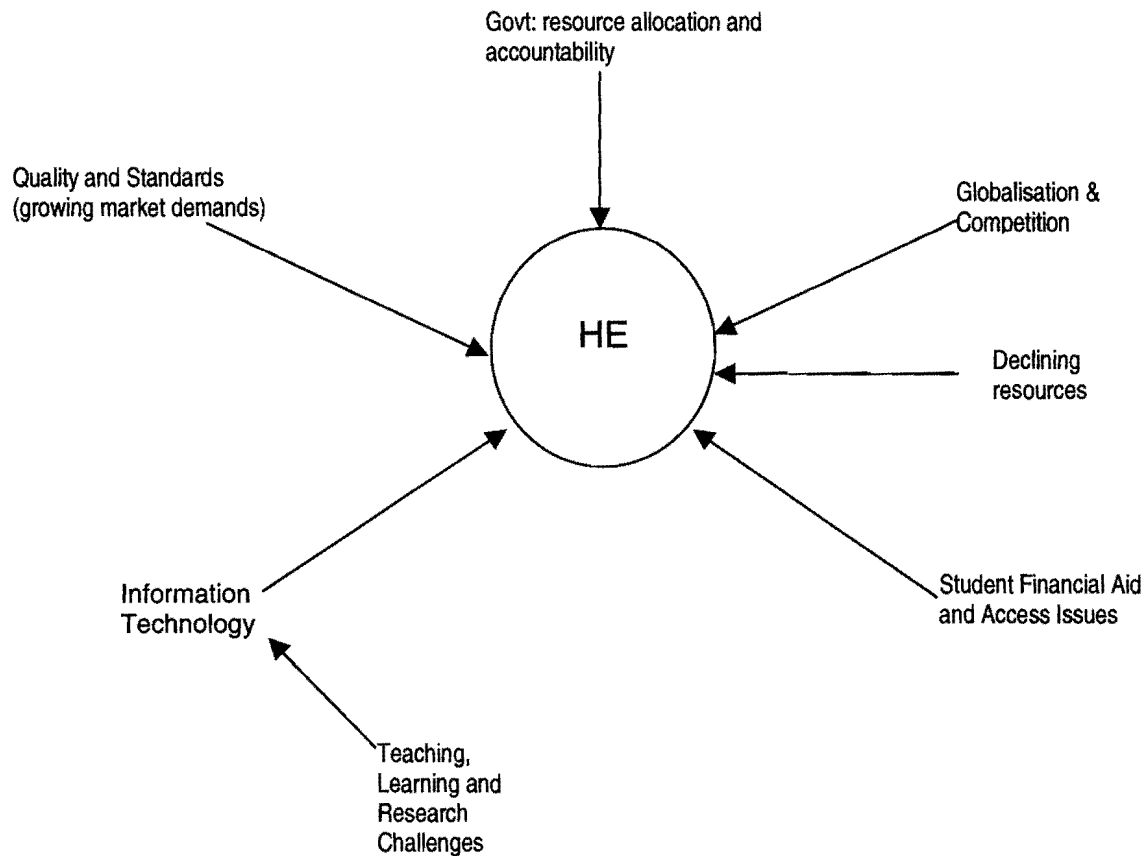
Thirdly, the declining resources in higher education are also related to the declining government appropriations, but mainly, here it has to do with donor funding for development projects. This trend has been with higher education for some time and is not likely to disappear in the foreseeable future. In financial terms, the global higher education sector is sizeable and growing rapidly. It is estimated that global spending on higher education is roughly US\$300 billion, or 1% of the global GDP, and growing at a faster pace than the world economy. Nearly one-third of this expenditure is in developing countries and, with

developing country systems heavily dominated by public universities that tend to have low tuition fees; the costs fall predominantly on the state. Any attempt to improve quality will therefore add to higher education's daunting financial requirements. Financial dependence on the state means that funding levels fluctuate with the ups and downs of government resources, and this process is exaggerated by the fact that higher education is perceived as something of a luxury in most countries (World Bank, 2000: 54).

Fourthly, is the perennial problem of student financial aid that has resulted in many higher education institutions being owed millions of rands in student fees (Carolus, 1995: 4). These student financial constraints have also led to access problems in many institutions, and further plunged them in financial crises and sporadic 'financial exclusions' boycotts at the beginning of each academic year (Carolus, 1995: 1-2). The then Tertiary Education Fund of South Africa (TEFSA), now known as the National Student Financial Aid Scheme (NSFAS) and other NGOs have been at the centre stage of alleviating this crisis over a number of years. This, however, remains a pressure that continues to strangle elements of good practice in higher education with a concomitant effect to the provision of quality programmes and staff attrition rates soaring in some institutions.

The fifth pressure is the growing demand and dependence on information technology, a development that is challenging traditional modes of instruction in higher education.





**Figure 2.1 Increasing Pressures on higher education.**

According to Donovan and Macklin (1999: 10),

*"colleges and universities everywhere are under pressure to make effective use of technology in teaching and learning. This pressure has many sources. Students increasingly arrive on campus, computer in tow, expecting information, services, and course material to be available online".*

Added to this, is the rush to add distance learning offerings to remain competitive in a rapidly changing educational marketplace. Information technology is undoubtedly a huge expense that exacerbates the pressure on these institutions.

Finally, is the fact that the institutionalisation of quality and quality assurance is firmly on the agenda of higher education the world over. In this country for example, the national policy initiatives make it imperative for the implementation of quality throughout the system. This is in response to the framework for transformation. This pressure forms the theme of this research, and hopefully will make a contribution in response to the research question: "How do transformed institutional structures influence quality assurance mechanisms in South African higher education?"

## **2.4 EDUCATION WHITE PAPER 3: A PROGRAMME FOR THE TRANSFORMATION OF HIGHER EDUCATION, 1997.**

The transformation agenda for institutions of higher education in this country is outlined in the White Paper 3 (published in July 1997). This document spells out issues of national importance in higher education in general. The Higher Education Act 101 of 1997 further endorsed that governing structures must have a completely different outlook both at institutional and systemic levels. For purposes of this study we shall focus mainly on the prescriptions of the Act and the agenda outlined in the White Paper 3 in as far as quality assurance in higher education goes.

### **2.4.1 BACKGROUND FOR THE WHITE PAPER 3**

As a sequel to the NCHE report, the White Paper also identified among other issues, quality as a critical factor for the restructuring of higher education. The White Paper states the following:

*The pursuit of the principle of quality means maintaining and applying academic and educational standards, both in the sense of specific expectations and requirements that should be complied with, and in the*

*sense of ideals of excellence that should be aimed at. These expectations and ideals may differ from context to context, partly depending on the specific purposes pursued. Applying the principle of quality entails evaluating services and products against a set standard, with a view to improvement, renewal or progress (Government Gazette, no 18207, p12)*

The basis for highlighting this and subsequent sections of the White Paper is that concentration or emphasis, for purposes of this study is on issues of Governance and Quality as identified in the White Paper. Other sections of the White Paper, although they are relevant in so far as the transformation of the entire higher education system is concerned do not form the basis of this study. Where necessary as the process unfolds, reference will be made to applicable sections.

#### **2.4.2 GOVERNANCE FRAMEWORK**

Chapter 3 of the White Paper 3 describes the framework as follows:

3.1 The transformation of the structures, values and culture of governance is a necessity, not an option, for South African higher education. Higher education institutions are vital participants in the massive changes, which our society is undergoing, and in the intellectual, economic and cultural challenges of the new world order. For the first time in their history, our higher education institutions have the opportunity to achieve their full potential, but they will not do so until their system of governance reflects and strengthens the values and practices of our new democracy. Furthermore, wholly transformed governance arrangements are needed to chart and steer the development of a single, integrated national system of higher education. The transformation of governance in the national system and its institutions is therefore a fundamental policy commitment of the Ministry of Education (WP3 1997: 25)

3.4 Both local and international experiences confirm the importance of governments working co-operatively with institutions of civil society in a spirit of partnership and mutual dependence. The challenges of modern societies cannot be met by either party acting alone. Thus our model of governance must be interactive (WP3 1997: 26)

3.7 Co-operative governance assumes a proactive, guiding and constructive role for government. It also assumes a co-operative relationship between the state and higher education institutions. One implication of this is, for example, that institutional autonomy is to be exercised in tandem with public accountability. Another is that the Ministry's oversight role does not involve responsibility for the micro-management of institutions. A third is that the Ministry will undertake its role in a transparent manner (WP3 1997: 26)

As it is evident from above, the institutional governing structures are faced with a myriad of crucial issues from within and outside the institutions. Fourie and Bitzer (1998: 28) contend that

*"internally, a strong force for change in institutional governance is the push towards greater representivity and participation by all stakeholders, taking into account the principles of democracy, equity and redress. The dilemma faced by higher education institutions is that the demands for participatory governance are hardly reconcilable with the challenges of greater professionalism in governance necessitated by the drive to better quality, more relevant, and more cost- effective services".*

On the other hand, co-operative governance must not be construed to imply that the state shall have absolute power over the [day- to- day] running of institutions of higher learning. The National Commission on Higher Education (NCHE 1996: 16- 18) cautions that "experience of some African countries indicates that the

exclusion of stakeholders such as staff and students from national governance contributes to systemic instability". Instead, the NCHE made a firm proposal that stakeholders as well as people with professional expertise, should participate in policy formulation and implementation. It further endorsed the principles of academic freedom and institutional autonomy as key conditions of a vibrant higher education system.

According to Strydom (1997: 3), however, many different views of and expectations from higher education abound amongst employers, alumni, parents, donors and members of a broader community. Also, competing views and priorities that give rise to tensions and turmoil can be found amongst those who are currently involved in the process of higher education, in particular, students, academic, administrative and service staff, and institutional management. What seems real, though is that competing interests within the higher education system lead to some measure of instability in leadership and institutional governance. To illustrate this point, each of the structures of governance in South African HEIs are analysed and discussed in subsequent paragraphs, and in greater detail in Chapters 6 and 7.

## **2.5 STRUCTURES OF GOVERNANCE AT SYSTEMIC LEVEL**

The legislative framework for higher education is captured in the Higher Education Act 101, 1997. The Act makes provision for the establishment of the Council on Higher Education (CHE) as a juristic person. Among the many functions of the CHE our primordial interest is on the '**Quality promotion and quality assurance**' requirements as outlined in the Higher Education Act (1997: 10-12): section 7:

- "(1) The CHE must establish the Higher Education Quality Committee (HEQC) as a permanent committee to perform the quality promotion and quality assurance functions
- (2) The CHE and the HEQC must comply with the policies and criteria formulated in the SAQA Act 1995 (Act 58 of 1995) section 5(1)(a)(ii)
- (3) The HEQC may, with the concurrence of the CHE, delegate any quality promotion and quality assurance functions to other appropriate bodies capable of performing such functions".

It is clear from above that, among other responsibilities, the CHE through the HEQC must put mechanisms in place that will (a) promote QA in higher education, (b) audit the QA mechanisms that are in operation within HE institutions, and (c) accredit programme offerings throughout the HE sector. Additionally, the National Plan for Higher Education is requesting the HEQC to review the quality of post-graduate programmes as a matter of priority, and also enhance research output and quality in partnership with research councils/foundations (NPHE, 2001:77).

### ***2.5.1 THE QUALITY PROMOTION UNIT OF SAUVCA***

Currently, the quality arrangements in higher education differ remarkably as a result of the binary divide pertaining in the system. Universities and Technikons have different approaches to quality assurance mechanisms. In the case of universities, each institution acts as its own accreditation and certification body in terms of its private act through which it was established. It was only recently, in the history of universities in this country that the South African Universities Vice Chancellors Association (SAUVCA), established the Quality Promotion Unit (QPU) whose purpose was to assist universities in conducting productive institutional self- evaluation at different levels, and creating a basis for development in the HE system. (QPU Audit Manual 1997: 5- 6). The QPU of

SAUVCA was short-lived and has since been replaced by the SAUVCA National Quality Assurance Forum (SNQAF), which was formally established in 2001.

### ***2.5.2 CERTIFICATION COUNCIL FOR TECHNIKON EDUCATION (SERTEC)***

Technikons on the other hand were subjected to the policies and practices concerning quality laid down by SERTEC (Certification Council for Technikon Education Act 88 of 1986), which functioned as a statutory accreditation body for technikon education in South Africa until August 2001. The SERTEC Manual for the Evaluation of Standards at Technikons (1995: 51) describes the evaluation methods to be followed by the visiting committees and how they could be validated if necessary.

The scenario described above makes it imperative for the higher education environment to be transformed if quality improvement efforts are to be successful, as it is also argued by Chaffee and Sherr (1992: 16). This pattern of the binary line is also prevalent in the British higher education system where universities and non- university institutions have very different backgrounds and experiences of quality assurance (Loder 1990: 5).

### ***2.5.3 THE HIGHER EDUCATION QUALITY COMMITTEE (HEQC)***

A striking similarity to the South African situation as highlighted by Webb in Green (ed) (1995: 46) in the UK, was the establishment of the new Academic Audit Unit (AAU) by the Committee of Vice- Chancellors and Principals (CVCP) that formally became operational in 1990. Within two years the Unit had been subsumed into a larger organisation with a wider remit, and covering the whole of the higher education system. In July 1992, following the changes made in the landscape of the higher education system by the Further and Higher Education Act, the Higher Education Quality Council (HEQC) formally came into being to

serve as a prime focus for activity concerned with maintaining and enhancing quality.

The journey charted by the quality audit between 1990 and 1992 was interesting and taxing; academic auditors, at least for the 'old' universities (i.e. those that carried the title before the 1992 Act) were developing and implementing an untried method for the external review of quality assurance (itself still a relatively new term). At the same time the "higher education system as a whole was being buffeted by storms, swirls and harbingers of change, which would test even the most well established systems and procedures for maintaining quality"(Green, 1995:46).

In the event, the absorption of the Academic Audit Unit into the Division of Quality Audit (DQA) of the HEQC, and the support given to Council by the old and new universities (and other institutions of higher education in the UK) reflected the extent to which the 'old' universities had come to accept external quality audit as an appropriate and worthwhile activity, and the expectation that it was capable of further adaptation and refinement to take into account the different traditions, and still developing quality cultures, of the 'new' universities (Green 1995: 46). This British experience ties up neatly with our own South African experience as proposed by the NCHE (1996:12). This implies that in order to ensure legitimacy and acceptance, the HEQC must operate within an agreed framework underpinned by:

- Formulation of criteria and procedures in consultation with HEIs
- A focus on improvement rather than sanctions, with QA not directly linked to funding
- A contribution of institutional self – evaluation and external evaluation (NCHE, 1996: 12).



The HEQC seems to be committed to building a national QA system in partnership with HEIs and organisations like SAUVCA and the CTP. It sees itself as having a formative role to play in developing a national QA system. It further recognises the complexities existing in as far as the DoE's responsibility of approving programmes for funding, and SAQA's responsibility for registering qualifications on the NQF. Quite frankly, the HEQC is committed to developing a sound relationship between development and accountability in its work because it must operate within the DoE's planning and policy framework of reconfiguring the HE system.

Although SAUVCA is not a statutory body of equivalent status to the HEQC (it is now a Section 21 company), its continued existence cannot be undervalued because it represents varying interests within the university sector. Its role in QA ranges from being a capacity builder to a player in the QA system. In recent discussions on these issues, SAUVCA is expected to mediate between universities and national policy makers (the HEQC in particular); to assist towards the development of QA capacity and expertise in the university sector; and to play a policy setting and active implementation role in the new QA system, for example, SAUVCA should ensure that institutional strategic plans include a quality perspective, research the relationship between QA and funding, establish regional quality reviews, continue with institutional audits, develop generic QA policy and procedures, etc. (Lockett and Kotecha, 1999 : 15 – 16). These initiatives depend largely on how the HEQC views its broader national mandate and whether it can delegate some of its responsibilities to sectors such as the CTP and SAUVCA. The establishment of the Council on Higher Education (CHE) necessitated the Interim HEQC to evaluate the quality assurance mechanisms and approaches in the higher education sector with the view to harmonising the historical imbalances. It is for this reason that a Task Team was set up to do the preparatory work for the HEQC before it was launched in 2001.

#### **2.5.4 THE EVALUATION OF SERTEC AND THE QPU**

Briefly, as it has been alluded above, the current arrangements for external quality assurance of South African higher education are the following:

- Since 1988, the Certification Council for Technikon Education (SERTEC) as a statutory body for the technikon has been engaged in programme accreditation and recently in the auditing of certain institutional aspects as well. This body has ceased to function in August 2001 as a result of the Higher Education Amendment Act 23 of 2001.
- The Quality Promotion Unit (QPU) of the South African Universities Vice-Chancellors Association (SAUVCA), established in 1996, was engaged in institutional units of universities until January 1999 when its activities were terminated. SAUVCA has since established the National QA Forum (SNQAF).
- Professional associations are involved in programme accreditation at both universities and technikons for those professional programmes where such associations exist. In the case of the technikons, this is done in co-operation with SERTEC. A Task Team was appointed by the Sub Committee of the Interim HEQC earlier in the year 2000 to carry out an independent investigation of the work of these two bodies. The **purpose** of the evaluation was to:
  - ~ determine the practices of both SERTEC and the QPU in quality assurance and its promotion for possible inclusion into the structure of the new HEQC
  - ~ identify areas of weakness in the practices of the two bodies and to recommend strategies to overcome these weaknesses in setting up the HEQC.
  - ~ highlight issues pertinent to quality assurance and its promotion in the higher education sector which the work of the two bodies has identified.
  - ~ Identify elements from the current quality assurance as being developed by the interim HEQC (CHE / IHEQC, 2000: 6).

The Task Team undertook this investigation with the full knowledge that the South African higher education sector is in a state of transition, with many of the reforms proposed in the White Paper and Higher Education Act yet to be implemented. In particular, the determination of the shape and size of the sector and the introduction of new funding mechanisms will be crucial for the development of a meaningful quality assurance system.

#### **2.5.4.1 TERMS OF REFERENCE**

The Evaluation was to:

- Describe the rationale, principles and assumptions underpinning the establishment and working of SERTEC and the QPU
- Identify clearly the goals of each of the bodies and how these have evolved
- Explore the appropriateness of all of the above for the future, particularly in relation to the Higher Education Act and White Paper, the challenges facing the higher education sector, and the potential operation of the HEQC
- Determine, insofar as is possible, the extent to which the goals of each of the bodies have been achieved, and identify examples of the impact the bodies have had on particular institutions or programmes
- Suggest ways in which SERTEC and the QPU might have achieved greater impact
- Describe the governance and operation of each of the bodies, including financing arrangements, and identify strengths and weaknesses. It is understood that the QPU has been closed but believed that valuable lessons could be learned from the experience of the QPU
- Make recommendations to the CHE, on the basis of the above analysis, about the rationale, principles, assumptions, goals and operations of a future HEQC.

In preparation for the evaluation, both SERTEC and the QPU were requested to prepare self-evaluation reports, which covers as many as possible of the above terms of reference. The evaluation should make full use of existing

documentation on, and evaluations of, SERTEC and the QPU, and should not unnecessarily repeat work already done (CHE / IHEQC, 2000: 47).

#### **2.5.4.2 STRENGTHS AND WEAKNESSES OF SERTEC AND QPU**

In this section the main strengths and weaknesses of SERTEC and QPU are summarised. The Evaluation Report classifies the process under the following broad headings: **conceptual issues** - how strategies were implemented and methods applied in practice; and **outcome issues** - what appear to have been the main outcome of the work of the two bodies, both for the higher education community and the wider society. In considering their strengths and weaknesses, emphasis was placed on the very different histories and contexts of the work of SERTEC and QPU.

In considering their respective strengths and weaknesses together in a single section, there is a sense in which neither body is done justice by taking insufficient account of the very different problems they were confronted with. It is important, however, to bring the two sets of experience together in order that the lessons learned from them can contribute to the establishment of a successful unified system of quality assurance over the next few years. However, because the differences between them are so large, a short reminder of the separate histories of the two organisations is desirable.

SERTEC was established as statutory body in 1986, initially a certification council. It issued certificates to candidates from technikons on the basis of compliance with norms and standards prescribed by the Council. However, in 1993 an amendment to the SERTEC statutes turned it into an accreditation body for programmes offered by technikons and agricultural colleges. SERTEC set norms and standards for examinations, established regulations for such matters as laboratories, examinations, staff qualifications, experiential training, programme evaluation, and credit transfer (CHE / IHEQC, 2000:33).

SERTEC conducted accreditation of programmes utilizing a two-stage method of self-evaluation and external peer review. The latter placed considerable emphasis upon contributions from industry and the professions. In 1996, further changes were made, with more importance being given to institutional self-evaluation and the promotion of a conception of quality as “fitness for purpose”. The hallmarks of the SERTEC approach were certification, accreditation of programmes, minimum standards, accountability, and stakeholder involvement. SERTEC has existed for over 15 years.

The QPU was set up in 1996 by the then Committee of University Principals. It was a body owned by the universities who had established it in response to a mixture of local pressures and international trends. It engaged in a process of institutional audits, which emphasised the formative and developmental aspects of quality assurance. Its focus was on quality management systems rather than quality per se, and it saw quality in relation to the objectives of the institutions and their own definitions of quality. Like SERTEC, it employed a two-stage process of self-evaluation and external peer review; but unlike SERTEC, its focus was firmly at the institutional rather than the programme level. The QPU existed for fewer than four years.

#### ***2.5.4.3 LESSONS LEARNED FROM THE SERTEC-QPU AUDIT***

The experiences gained from the work of SERTEC and the QPU will provide many insights and lessons for years to come. It will be important for the HEQC to bear them in mind at all times. Below are a number of lessons which are important and timely at this early stage of the HEQC’s development.

There are six principal lessons:

- Avoid trying to operate the HEQC “on the cheap” with insufficient staff, facilities or funds. Match aims to activities and activities to funds. And if the funds cannot be provided, reconsider the aims and activities. (The state

would have to provide the core funds and that these to be supplemented by the institutional and donor funding). An example of the Australian model in Chapter 4 could serve as a resource from where South Africa can benefit, and avoid mistakes where necessary.

- Do not try to do everything at once. In relation to the balance between accountability and improvement, a three-phase approach where the first phase is a starting up phase while system size and shape matters are sorted out, is suggested. For the HEQC, this could also be an experimental and promotional phase when new methods are piloted and dialogue with stakeholders takes place. The second phase would be a phase of improvement with particular emphasis upon capacity building in institutions through training, pilot studies, research and development, and cultural change. During this stage, the HEQC would need to be finalising its methodology, developing guidelines and explaining its purposes and expectations to institutions. The final stage would be the full operational stage, which will be able to achieve both accountability and improvement goals – provided that rigorous procedures and competence in their implementation have been built up in the previous two stages.
- Attempt to do only those things for which there are necessary resources and expertise.
- Remember that the HEQC could lose legitimacy through a lack of competence within its panels or in its administration.
- The HEQC will need to be realistic about the resources – including time and competencies needed – available within the institutions if they are to be successful in introducing effective quality management systems. The HEQC will have a major responsibility to develop the capacity in institutions to carry out necessary processes such as self-evaluation and to ensure appropriate follow-up and decision-making at all institutional levels.
- Temper an awareness of theoretical ideals in quality assurance with realism about what can be achieved in present circumstances. For example, while self-evaluation holds out the promise of effective improvement-orientated

quality assurance in time, recognise that institutions have not yet gained the expertise to do it properly (CHE / IHEQC, 2000: 37).

### **2.5.5 THE HEQC FOUNDING PRINCIPLES**

The policy and legislative basis of the HEQC stems from the NCHE report of 1996, the Education White Paper 3 of 1997, the Higher Education Act of 1997, the SAQA Act of 1995 as well as the SAQA Regulations gazetted (no. 19231) in 1998. In its Founding document, the HEQC captures its vision as being

*committed to a quality driven higher education quality system that contributes to the socio-economic development, social justice and innovative scholarship in South Africa. To achieve this end, the HEQC will support the development, maintenance and enhancement of the quality of public and private higher education provision in order to enable a range of stakeholders to benefit from effective higher education and training. The central objective of the HEQC is to ensure that providers deliver high quality, cost effective education and training, and research which produces socially useful and enriching knowledge and skills as well as employable graduates. The policies and programmes of the HEQC will be guided by the above commitments and objectives (CHE / HEQC, 2001: 8-9).*

Despite the often differing conceptualisations and expectations of quality among different stakeholders in higher education, the HEQC intends to signal clearly its understanding of quality in order to:

- Allow providers to engage with and operationalise such understandings within their own institutional contexts and missions.
- Provide stakeholders with a framework within which to make judgements about the quality of higher education and training.
- Enable the HEQC itself to develop the appropriate policy and procedures for the ETQA responsibilities of the CHE.

The Founding Document (2001: 14) goes on further to say that the HEQC will develop a quality assurance framework and criteria based on:

- (i) Fitness for purpose in the context of mission differentiation of institutions within a national framework.
- (ii) Value for money judged not only in terms of labour market responsiveness or cost recovery but also in relation to the full range of higher education purposes set out in the White Paper on Education.
- (iii) Transformation in the sense of developing the personal capabilities of individual learners as well as advancing the agenda for social change.

External judgements about the achievements of quality in respect of the above will be based on a rigorous but flexible approach, which takes into account different degrees of emphasis on the above elements as well as different approaches to their achievement. All of the above will be located within a **fitness of purpose** framework based on national goals, priorities and targets (CHE / IHEQC, 2000: 7-8).

The relevance of this discussion to the thesis of this study is that the implications of this evaluation, informs the current QA practices across the higher education sector. The scenario above demonstrated what the governance and quality assurance arrangements were prior to the 1997 legislation, and what the HEQC's approach to quality in the system is. It is evident that the governance structures are required to influence the quality assurance and quality enhancement initiatives by ensuring human resources capacity, financing and the development of quality management systems.



## **2.6 THE SOUTH AFRICAN QUALIFICATIONS AUTHORITY ACT 58, OF 1995**

The HEQC, according to the Higher Education Act 101 of 1997 section 7 (2) is required to operate within the requirements of the SAQA in its mandate of facilitating the development of the National Qualifications Framework (NQF), whose objectives are to

- (a) create an integrated national framework for learning achievements;
- (b) facilitate access to, and mobility and progression within education, training and career paths;
- (c) enhance the quality of education and training;
- (d) accelerate the redress of past unfair discrimination in education, training and employment opportunities; and thereby
- (e) contribute to the full personal development of each learner and the social and economic development of the nation at large." (SAQA, 1999: 29).

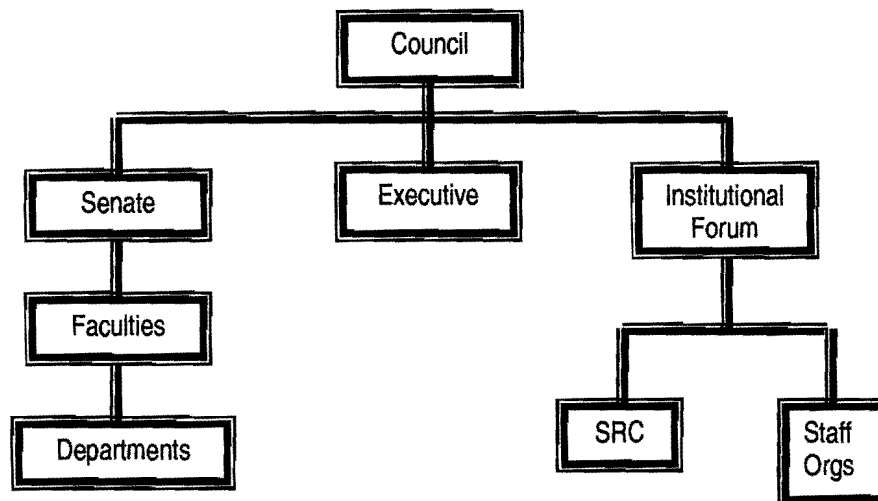
Accordingly, the functions of SAQA are to (i) oversee the development of the NQF and formulate and publish policies and criteria for the registration of bodies responsible for establishing education and training standards or qualifications; and accreditation of bodies responsible for monitoring and auditing achievements in terms of such standards; (ii) oversee the implementation of the NQF, including the registration of bodies mentioned above, national standards and qualifications, and take steps to ensure compliance with the provisions for accreditation, and ensure that standards and registered qualifications are internationally comparable.

Section 14 of the SAQA Act makes provision for regulations governing the accreditation of the ETQAs, which form part of the NQF quality assurance management system.

## 2.7 STRUCTURES OF GOVERNANCE AT INSTITUTIONAL LEVEL

The recent developments in the South African higher education system have necessitated the entire reconfiguration of the institutional governance structures in the spirit of progress of our nation. Sir Christopher Ball (Eggins 1988: 3) attests to the fact that in a democracy the government cannot be the enemy. It is therefore my contention that the transformation of the governance structures is a 'good faith effort' to bring integrity into the system and harmonise relationships and competing interests within public higher education institutions.

According to Jon File in Cloete, Kulati & Phala (2000:31), South African higher education institutions can be depicted as follows in Fig. 2.2:



**Fig. 2.2 South African higher education institutional governance (Cloete, Kulati and Phala, 2000: 31).**

### 2.7.1 COUNCIL

According to paragraph 3.33 of the White Paper 3 (1997: 31), it is the responsibility of HEIs to manage their own affairs. The Ministry has no

responsibility or wish, to micro- manage institutions, and as a result, Councils are the highest decision- making bodies entrusted with all fiduciary responsibilities. In order for the public confidence to be sustained the composition of councils should be in such a way that external members are in the majority in order to maintain the balance of power and more importantly to promote good governance. Accordingly, the Act specifies that the council shall consist of members drawn from within the institution (namely, students, staff, workers, and management) in addition to members drawn from outside the institution, who must constitute a sixty- percent majority (Ncayiyana and Hayward 1999:3). Every public higher education institution is required to establish the following structures and offices:

- (a) a council
- (b) a senate
- (c) a principal
- (d) a vice-principal
- (e) a students' representative council
- (f) an institutional forum and
- (g) such other structures and offices as may be determined by the institutional statute (Higher Education Act 101(1997): 22-24)

### **2.7.1.1 POWERS AND FUNCTIONS**

It is important to realise that the relationship between these structures and offices is of crucial importance to the advancement of the institutional strategic objectives and its core business. Statutory powers relating to the governance of universities and technikons are that councils must:

- (i) **govern** the institution,
- (ii) determine the **language policy** with the concurrence of senate,
- (iii) consult with the SRC to **provide a suitable structure to advise on the policy for student support services** and

- (iv) receive **advice from the Institutional Forum** (Higher Education Act 101 (1997):24; WP3 1997: 31).

These identified statutory powers make councils accountable to the state and other stakeholders. Councils are further required to transcend the sectarian interests and act in the best interests of the institution. The Act further stipulates that they "must be persons with knowledge and experience relevant to the objects and governance of public higher education institutions". Kulati (1999: 4-5) argues that the thrust of the legislation with regard to the institutional governance has been on the creation and establishment of structures and practices that will enable different institutional stakeholders to negotiate, in democratic and transparent ways, the various transformation challenges facing their institution.

In relation to the structural and representational aspects of governance transformation, the White Paper is unequivocal that a "critical first step" towards the transformation of higher education institutions is the restructuring of institutional governance structures. What needs to be avoided is the emergence of managerialism in higher education, as it has been the case in the British higher education system where professional managers, through their decision-making role systematically marginalised the role of academics in governance matters (Harvey and Knight 1996: 68- 69). Such tendencies do not augur well for principles of good governance and accountability because, according to Yorke (1993: 5), they exacerbate the centralisation of control and erosion of the contribution of academics to institutional policy- making and 'a sense of alienation from senior management'. The South African model of transformation has benefited from global experiences. The past discriminatory policies and practices, in order not to perpetuate the same mistakes, have to be done away with.

### **2.7.1.2 IMPLICATIONS FOR INSTITUTIONAL GOVERNANCE STRUCTURES**

As it is evident from above, technikons and universities possess unique purposes, structures, and traditions within a society that places high value on freedom, the unfettered pursuit of truth, and competition among organisations. The academic institution is like no other organisation or commercial enterprise (Ncayiyana and Hayward 1999: 4). The working relationships among the structures within institutions are of utmost importance in order to foster a sense of collegiality as well as the broader attainment of institutional goals and objectives.

Governing councils, as it is mentioned above, are entrusted with the responsibility of building and enhancing effective and efficient systems that are geared toward assuring the taxpayers and the state of quality promotion across all institutional levels and their functions. A number of higher education institutions, particularly some of the HDIs, have experienced periods of crises that could in some instances be attributed to growing tensions within councils. Meek and Wood (1997 : 37) concur with the White Paper 3 view that councillors must 'act in the best interest of the institution', and not have conflicting roles of either a delegate or trustee. According to Bargh, Scott & Smith (1996:35) the balance of power in terms of decision-making depends on the strength of allegiance between 'management' and the 'professionals' or between 'management' and the accountable body.

### **2.7.1.3 MANDATED RESPONSIBILITIES OF GOVERNING COUNCILS**

Steele (1999 : 9–10; 13) further develops the specific functions of Council members in order to clarify the role of Councillors in universities and technikons. Some of the expressly mandated responsibilities are:

- assurance on academic integrity (process, quality, and ethics). This function has a bearing on the prominent role played by Senate in conducting its business and ensuring council by means of documentary proof that it is functioning effectively.
- approval of academic and institutional plans and policies
- ensuring financial stability by satisfying itself with budgetary procedures
- assurance on institutional structure and practices conducive to sound administration and management
- approval of the process on senior appointments
- approval of senior staff remuneration packages and conditions of service
- approval of any contract of major effect to the institution
- approval of selection and appointment of the Principal and deputies, and ensure paths of succession
- approval of appointment of professorial and senior administrative staff
- approval of annual rates of tuition fees
- approval of appointment or discharge of external auditors
- approval of establishment / disestablishment of academic departments
- approval of staff and student disciplinary procedures
- approval of dismissal of member of staff
- approval of write off of any debt due to the institution

It is however, of crucial importance to note that council may delegate some of its authority to either any of its committees or the Vice Chancellor.

### **2.7.2 SENATE**

Academic senates are generally considered to be the normative organizational structure through which faculty members exercise their role in college or university governance at the institutional level (Birnbaum, 1988: 1)

### **2.7.2.1 THE ROLE OF SENATE**

It is an accepted fact that the academic profession is at the very heart of the academic enterprise. Altbach and Berdahl (1981: 261) argue that the professoriate stands at the centre of any academic institution and in a way is insulated from indirect interaction with the many of higher education's external constituencies. Academics do not generally deal with trustees, legislatures, or parents. Their concerns are with their own teaching and research, and with their direct academic surroundings, such as the department. However, it is essential to note that these external forces have an effect on the academic profession. The rich tradition from which HEIs are coming is that of institutional autonomy, academic freedom and a research culture intended to produce knowledge and a search for scientific or scholarly solutions to the many societal problems and opportunities. The Senate of a public higher education institution is deemed to be responsible for maintaining the culture of quality in its academic programs. The Higher Education Act 101 of 1997 affirms the position of senate as being responsible for the teaching, learning and research (academic) and community service. These are the functions that underpin the move towards quality education throughout the system globally.

Senate is, however, still required to report or be accountable to council even though the majority of its membership is drawn from the academic employees of the institution. It is the highest decision-making body on academic matters. The Higher Education Amendment Act of 1999 prescribes that the principal of a public higher education institution is the chairperson of the senate. In addition, the registrar of an institution is required to become the secretary of both the council and the senate. This amendment came about as a result of the debates that took place in higher education circles after the Higher Education Act 101, 1997 was promulgated. It was intended to correct and close the loophole that was created by the Act, so that it is in line with the institutional statutes and private acts (where applicable).

### **2.7.2.2 THE COMPOSITION OF SENATE**

Accordingly, the composition of senate must include the principalship or rectorate, academics (who must constitute the majority), non-academics, members of council, members of the students' representative council (SRC) and such additional persons as may be determined by the institutional statute. It is clear from this composition that the senate has indeed been transformed from the traditional domination by the professorial ranks that were even gender insensitive. It behooves the institutional stakeholders to define exactly what the majority in senate membership should constitute. Traditionally, academic senates were constituted by the professoriate and heads of departments, and the new legislation identifies students and employees other than academic to sit on senate. This point is probed further in Chapter 7 in response to how senate as a governance structure influences quality assurance.

### **2.7.2.3 FUNCTIONS OF AN ACADEMIC SENATE**

Senate is the engine room that is charged with the responsibility of the core business of the institution. It is required to steer the teaching and learning, research and community services functions in a manner that would demonstrate quality education.

In addition, the pursuit of the principle of 'quality', as the White Paper paragraph 1.21 (1997: 7) puts it, is to maintain and apply academic and educational standards, both in the sense of specific expectations and requirements that should be complied with, and in the sense of ideals of excellence that should be aimed at. These expectations and ideals may differ from context to context, depending on the specific purposes pursued. Applying the principle of quality entails evaluating services and products against set standards, with a view to improvement, renewal or progress.



### **2.7.3 INSTITUTIONAL FORUM**

Profound debates on the transformation of campus governing structures in the early nineties led to the establishment of the Broad Transformation Forums (BTFs) in many campuses in this country (Institutional Forums in Higher Education, 2000: 4). What became very clear from the outset were the endemic power struggles that characterise the debates. In some campuses BTFs vigorously wanted to assume the powers and duties of council, including the day-to-day running of campus affairs (cf. Chapter 6 section 6.3 A 1(d)).

Students and some progressive forces on some campuses went to the extent of attempting to replace all or some executive officers (and councils) in pursuit of the institutional political agendas that were prevalent at the time. After extensive consultation the Ministry of Education decided to put the matter before parliament, hence the establishment of the Institutional Forums (IFs) which have the statutory powers in relation to the governance of universities and technikons. This decision has assisted to clear the confusion that characterise the governance of higher education institutions in the period 1992 to 1997.

#### **2.7.3.1 FUNCTIONS OF AN INSTITUTIONAL FORUM**

The role of the institutional forum is advisory to council. The Act specifies the parameters within which they must operate. These include the implementation of this [and / or amended versions] Act. National policy issues, race and gender equity issues, selection of senior management into positions, codes of conduct, mediation and conflict resolution procedures, and fostering an institutional culture which promotes tolerance and respect for fundamental human rights and creates an appropriate environment for teaching, research and learning. Given the extent of the complexities in the management and governance of universities and technikons, the institutional forum is expected to perform other tasks that may be assigned to it from time to time by the council. In the spirit of the Act, it is

abundantly clear that the IF neither manages nor governs the institution. It is, however, accountable to its constituencies or stakeholders as identified in the Act (cf. Chapter 7 section 7.5).

### **2.7.3.2 COMPOSITION OF AN INSTITUTIONAL FORUM**

The composition of the Institutional Forum must include representatives of the following:

- (a) the management (as determined by the institutional statute or the Act)
- (b) the council
- (c) the senate
- (d) the academic employees
- (e) employees other than academic
- (f) the students; and
- (g) any other category determined by the institutional statute (Higher Education Act 101, 1997, 31(2)).

Since the Higher Education Act 101 of 1997 makes provision for the IFs, councils have the duty and obligation to consult these forums in a proactive and helpful manner that will enhance good governance. It is also worth mentioning that the institutional forums are permanent structures as opposed to the Broad Transformation Forums, which were established for a specific purpose, and are supposed to cease to exist once the institutional statute is passed by parliament. In essence the life span of the BTFs was intended to be interim. Whereas the jurisdiction of BTFs was on transformation issues, the IFs may handle much broader institutional issues as cited above in 2.7.3.1.

### **2.7.4 THE STUDENTS' REPRESENTATIVE COUNCIL**

Another statutory requirement relates to the establishment of the Students' Representative Councils (SRCs) in public higher education institutions. This

structure represents students who elected it, and is consequently accountable to the student body. SRCs, like the IFs neither manage nor govern the institution. It is, however, imperative for SRCs to interact with management on issues pertaining to students matters. Further details of how the SRC functions are outlined in the SRC constitution that forms part of the institutional statute. It is worth mentioning that the Students' Representative Councils in the university sector have grouped themselves into a body (South African Universities – Students' Representative Councils : SAU-SRCs) that gives attention to broader student matters across institutions. This body interacts with the Ministry of Education and even go to an extent of mediating in campus crises.

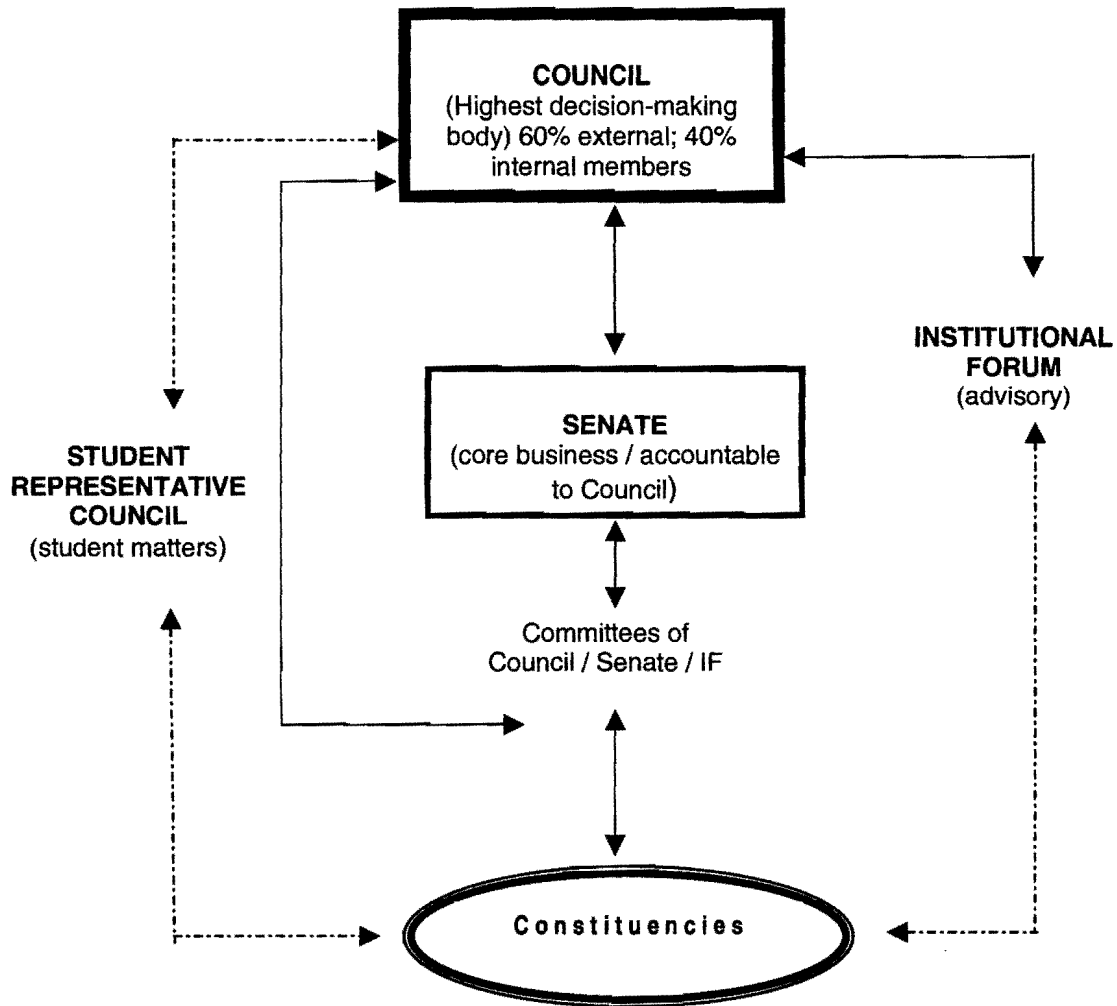
Predominantly, students are expected by the higher education system to engage in academic activities and exit the system as positive role models. Although there are tensions and challenges on campuses around the world, it is important for the student leadership not to lose focus of the bigger picture. An example drawn by Kerr and Gade as cited by Bloom (1987 : 341) from an American experience is that:

*For a time the great moral consciousness alleged to have been fostered in students by the great universities, especially their vocation as gladiators who fight war and racism, seemed to fulfill the demands of the collective university conscience . . . they were doing something other than offering preliminary training . . . But when that evanescent mist dissipated during the seventies, and the faculties found themselves face to face with ill-educated young people with no intellectual tastes – unaware that there even are such things, obsessed with getting on with their careers before having looked at life – and the universities offered no counterpoise, no alternative goals, a reaction set in.*

This scenario is reminiscent of our situation here in South Africa, especially in the post-apartheid era. Students need to reposition themselves to subscribe to the new ethos, the new dynamics, and emerging relationships with managements,

academics, and the state. The relationships of stakeholders in the HE system need to be nurtured in order to accomplish the objectives of the national agenda of transformation and quality imperatives.

Derived from the discussion above and the contribution of Cloete, Kulati and Phala (2000: 31), a much clearer and practical illustration of the governance structure at an institutional level would look by-and-large as follows (Figure 2.3) in terms of the Higher Education Act:



**Fig. 2.3 Institutional governing structures and their relationship.**

### **2.7.5 THE PRINCIPAL**

Another layer of authority that is crucial to the smooth running of an institution is also identified in the Act as that of a Principal (Higher Education Act section 30: 1997: 26). The responsibility of the principal stretches across the management and administration of a public higher education institution. Sizer (as cited by Eggins, 1988 : 89) is supportive of the Jarratt Report (Sir Alex Jarratt conducted Efficiency Studies in Universities for the CVCP in 1985) that the effectiveness of

a Vice Chancellor or Principal is crucial to the success of an institution. The report further recommends that executive styles of management with clear lines of authority, responsibility and accountability are something to go by in the higher education enterprise. The Vice Chancellor and Principal ought to be considered to possess “positive and decisive leadership” and a “high quality manager of change, of appropriate academic standing”. The Principal as the Chief Executive Officer is accountable to Council, and he / she has delegated authority from Council by virtue of his office.

Among the broader responsibilities that vice-chancellors have are the making of proposals to council about the educational character and mission of the institution, and implementing the decisions of the governing body. The organisation, direction and management of the institution and leadership of its staff is yet another responsibility that should distinguish the vice-chancellor as a *sine qua non* for institutional effectiveness and success. According to Warner and Palfreyman (1996: 81 - 82)

*"The determination, after consultation with the senate or academic board, of the institution's academic activities; the preparation of annual income and expenditure estimates for the management of budget and resources; and the maintenance of student discipline, and within the rules and procedures provided for in the statutes, for the suspension and expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons".*

These are some of the tasks that have a bearing on the quality aspects of the institution that are inherent within the literature on effective leadership. The Vice Chancellor and Principal as indicated in this section is central in influencing structures of governance towards the attainment of the institutional mission and strategic plans. These are some of the aspects that demonstrate the impact that is made on the quality assurance mechanisms.

## 2.8 CONCLUSION

This chapter has outlined the policy as well as legislative framework that underpin the transformation agenda in this country. Experiences have been drawn from other countries in an attempt to illustrate that the South African higher education system is part of the global village. It is so because South Africa has drawn from some of the best practices elsewhere in the world, and the on-going transformation agenda continues to influence the decisions made. Experts from the United Kingdom, the United States and New Zealand are contributing in shaping higher education quality assurance debates.

The basis of the Education White Paper 3 has been clarified with the stipulations of the Higher Education Act of 1997. The powers and functions of governing councils have also been alluded to in the context of transformation and what the expectations of the public are from these structures.

Central to the core business of academic institutions are senates. These bodies are in fact depicted as central in the context of this chapter in as far as they are responsible for the quality of teaching and learning at both under-graduate and post-graduate levels. Based on some case studies, an in-depth account of the role of senate in programme assessments and evaluation, as well as accreditation shall be dealt with from an international perspective in chapter 4.

In the spirit of co-operative governance there has to be a synergy among all stakeholders irrespective of whether they are internal or external. The legislative framework provides for student representation, the institutional forum and other internal stakeholders, including the principal, who should collectively endeavour to develop a principled consensual approach to quality enhancement.