

## **TAKING MINDS TO MARKET\***

For the past 20 years many academics, including this author,<sup>1</sup> have fought the battle for minds over markets. Our standard response to the pressures of neoliberalism and globalisation has been reactive, defensive and ad hoc. Too often we have tried to stop the clock and turn it back, ignoring the dialectics of history. Small victories have been hard fought, only to be by-passed in a modified assault. Progressive initiatives to reverse the market agenda have been distorted by that environment, sometimes generating monstrous hybrids that are haunting testaments to our naivety. When critics accuse us of professional and individual self-interest, nostalgic self-delusion and intransigent resistance to change, they have a point. But they also ignore a deep-seated and authentic conviction about, and sense of responsibility to maintain, the power of knowledge to liberate the individual and the collectivity.

This paper asks whether we have been defending an idealised model of the university that is not sustainable under globalised capitalism. The argument is developed through four propositions: first, contemporary global capitalism driven by information technologies is irreversibly transforming the function and nature of universities throughout the world; second, the policy responses from states across the global North and South show strong convergence and is producing an unsustainable hybrid form of a modern/neoliberal university; third, the dynamic interaction of neoliberalism and the global information economy have generated a parasitic international education industry of which this hybrid university is an integral, yet incongruous part; and fourth, the current negotiations on the General Agreement on Trade in Services at the World Trade Organisation reveal both the resilience of public good notions of the universities and their vulnerability as 'trade in services' commitments thicken and embed the global higher education industry. It concludes that the universities are one site in a dynamic, contradictory and ultimately unsustainable transformation of capitalism.

## **CHANGING ECONOMIC PARADIGMS**

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Universities are neither autonomous nor static. Historically, they have existed within frameworks of state policy that seek to maintain and enhance the profitability of capital. For the most part, they have also contributed to social stability and cohesion, and to securing the political legitimacy of the state, although that has varied with time, place and context. The transition from one era of capitalism to another requires radical disjunctures in existing policies and regulation, including for the universities. The old does not simply wither away. New and old interact in diverse ways across national, regional and international arenas. The residues of the old paradigm and the innovations of the new can be hard to reconcile. Those frictions are heightened when resistance seeks to maintain incompatible elements of the old regime or when externally imposed policy prescriptions attempt to override locally generated priorities. The transformation process is dynamic and contested. It is also embedded in the political economy of contemporary capitalism and the historically unequal relationship between the industrialised North and the marginalised periphery.

Today the European model of the university prevails throughout the world.<sup>2</sup> In part this is a legacy of imperial powers that established universities in their colonies as branches or replicas of the metropole. But it also applies in countries like Japan that were not colonised and had their own established academic institutions. The particular form and function of modern universities reflects the institutional arrangements and social relations that were needed to foster industrial capitalism after World War II.<sup>3</sup> As Bob Jessop observes, these arrangements were associated with citizenship, mainly national, statist and taxpayer funded, decommodified so as to be 'public goods', and augmented by market forces.<sup>4</sup> While universities served vital economic functions through the social reproduction of labour and developing new knowledge, their national focus also gave them an intrinsically cultural role in

the building of national identity, the use and development of national language, a certain national policy of knowledge production, and the production and reproduction of specific forms of cultural capital appropriated by the emerging new middle classes.<sup>5</sup>

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<sup>2</sup> Philip G. Altbach (2004) 'Globalisation and the University: Myths and Realities in an Unequal World' 10 *Tertiary Education and Management* 3-25

<sup>3</sup> Janice Drakich, Karen R. Grant and Penni Stewart (2002) 'The academic in the 21<sup>st</sup> century, editors' introduction', 39(3) *The Canadian Review of Sociology and Anthropology*, August 2002, 249

<sup>4</sup> Bob Jessop (2002) *The Future of the Capitalist State*, Cambridge: Polity Press, ch.2; see discussion in Susan Robertson, Xavier Bonal, Roger Dale (2002) 'GATS and the education service industry: the politics of scale and global reterritorialization' 46(4) *Comparative Education Review* 472

<sup>5</sup> Robertson et al (2002)

They expanded during several decades of economic security and the maturing of the welfare state. Impelled by the politics of activism and unionisation university governance became (somewhat) more democratic, new disciplines engaged with society and political were embraced and the composition of students and staff slowly broke down old class, gender and racial boundaries.

During this era, universities in the global South reflected a combination of Western cultural imperialism, diversity and potential. Following the independence struggles of the 1950s and 1960s fledgling independent universities took root in various parts of Africa. They remained heavily dependent on Western knowledge and intellectuals and the patronage that was bestowed by one great power or another as coinage in their battle for Cold War ascendancy. Yet they offered the promise of genuine development.<sup>6</sup> Long-established and new universities flourished in the Indian subcontinent. In Latin America, the Córdoba reform movement, begun by students in Argentina in 1918, continued to inspire a commitment to 'accessibility, social justice, academic freedom and institutional autonomy'.<sup>7</sup>

There is doubtless a tendency to idealise that era. These autonomous institutions and bastions of academic freedom were always creatures of state policy that served 20<sup>th</sup> century capitalism. While universities became increasingly dominant, they never had complete monopolies over higher education or research. Academic work was proletarianised, although that uncomfortable reality was usually denied by petit bourgeois professionals who preferred to form academic associations rather than trade unions. General and service staff occupied the lower rungs of a strongly gendered class hierarchy. University governance remained the domain of the institutionally powerful, who were usually aging male professors. Egalitarian notions of the knowledge commons and public good belied the elitism of the academy and the enduring class bias of the student population.

By the 1980s, the golden age of the modern university was over. The crisis of productivity in core capitalist societies in the 1970s impelled the restructuring of capitalism through neoliberal policies of deregulation, liberalisation, privatisation and fiscal austerity. That transformation, in turn, liberated the potential of emerging

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<sup>6</sup> Paschal B. Mihyo (2004), 'GATS and Higher Education in Africa: Conceptual Issues and Development Perspectives', paper to Association of African Universities Workshop on the Implications of GATS for Higher Education in Africa, Accra, Ghana, 27-29 April 2004

<sup>7</sup> Daniel Schugurensky and Adam Davidson-Harden (2003), in 1(3) *Globalisation, Societies and Education* 324

information technologies. Both developments impacted profoundly on the modern university. Manuel Castells recounts how technologies developed in the 1980s were diffused over time from the original sites of techno-economic change – the high-tech firms and financial sector - into manufacturing at large, then into business services, 'gradually to reach miscellaneous service activities, where there are lower incentives for the diffusion of technology and greater resistance to organizational change'.<sup>8</sup> The result, he argues, is a global economy where

the core activities of production, consumption, and circulation, as well as their components (capital, labor, raw materials, management, information, technology, markets) are organized on a global scale, either directly or through a network of linkages between economic agents.<sup>9</sup>

A feature of revitalised capitalism was its dynamic, unpredictable and uneven nature. Constant renewal through Schumpeterian 'creative destruction' required the elimination of state monopolies that insulate key activities from market forces, a different form of identity and socialisation, and a lowering of expectations about what the state could deliver.

The generalisation of knowledge-based production and management to the whole realm of economic processes on a global scale requires a fundamental social, cultural and institutional transformation which, if the historical record of other technological revolutions is considered, will take some time.<sup>10</sup>

Castells argues that this global economy, in which mobile capital and networked firms were driven by information technologies, was politically constituted by neoliberalism, but could neither be politically undone nor successfully disengaged.<sup>11</sup> Yet, as Susan Robertson et al point out,

dynamic deterritorialisation and compression of time and space depended on relatively fixed and immobile territorial infrastructures such as states. Capital had to be mobile, but could only be generated and realised at and through fixed points. It also needed social institutions that allowed its expansion.<sup>12</sup>

This relationship between the state and capital was reciprocal and contradictory. Globalised capitalism needed the state, first to restructure and then to 'enable' its profitable operation and expansion across borders. The state in turn needed a strong economy. The ideological ascent of neoliberalism saw economic measures, especially economic growth and global competitiveness, replace social indicators as markers of state legitimacy. Yet these fixed points – states - existed for more than

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<sup>8</sup> Manuel Castells (2000) *The Rise of the Network Society: The Information Age: Economy, Society and Culture* Volume 1 (2ed) Oxford: Blackwell, 90

<sup>9</sup> Castells (2000), 77

<sup>10</sup> Castells (2000), 100

<sup>11</sup> Castells (2000), 147

<sup>12</sup> Robertson, et al (2002) 472

instrumentalist economic purposes. Polanyi's lesson from the last great laissez faire experiment was that capital accumulation depends on social stability and the political legitimacy of the state.<sup>13</sup> Despite talk of a borderless world of global capitalism, that dependency still applied.

Predictably, state policies, including those that shaped the university system, were reoriented to serve the new economic paradigm. According to the European voice of big business, UNICE, social and cultural values that influenced government policies, regulatory frameworks, effective collaboration between industry and universities were key obstacles to corporate competitiveness.<sup>14</sup> Universities would remain an important site for the social reproduction of labour and the production of wealth-creating knowledge, especially for the major powers. But the ideal of the university as a quasi-constitutional and autonomous agency that exists to advance the pursuit of knowledge, to stimulate culture and identity and to engage critically and independently with pressing questions of the time had to change. The catalyst was the economic imperative to sever the teaching-research nexus.

The skills and disciplines required by an information-driven global economy demanded a radically different approach to the social reproduction of labour. By the 1990s, Castells argues, flexible production and flexible specialisation had replaced Taylorism, with its vertical integration of production and specialised skills, and the lean production models of the 1980s that sought productivity gains simply by cutting labour costs. Just-in-time production implied total quality control. That depended on a stable, adaptable and obedient labour force that could draw on both explicit knowledge and tacit knowledge based on experience. The dynamic redundancy of products, associated skill sets and jobs meant workers had to be constantly engaged in lifelong learning, with a premium on literacy in information technology and English language. The very concept of a 'knowledge economy' spurred greater demand from governments and individuals for higher education and credentialism of an instrumentalist kind.

Workers were now referred to as human resources. The primary function of education was to enhance their human capital. Education needed to have a practical application and be designed and delivered with end-users in mind. People had to be

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<sup>13</sup> Karl Polanyi (1957) *The Great Transformation*. Boston: Beacon Press

<sup>14</sup> quoted in 'European Business Summit; Consolidating Corporate Power', *7 Corporate Europe Observer* [www.corporateeurope.org/observer7/ebs.html](http://www.corporateeurope.org/observer7/ebs.html) (accessed 12 May 2006)

trained, rather than educated. David Noble helpfully articulates the distinction:<sup>15</sup> *training* involves the honing of a person's mind with a set of skills or a body of information designed to be put to use for the purposes of someone else and in a context determined that person; *education* is a process that entails the utter integration of knowledge and the knowledgeable person through an interpersonal relationship between student and teacher that aims at individual and collective self-knowledge.

As a practical illustration, Noble recounts how the slogan 'just-in-time education' was coined by the US Defence Department in 2000 to describe its huge contracts for distance education. The goal was 'to produce this product, in the shortest amount of time, with the least resources, and to the greatest effect'. Skilled personnel 'or more precisely, the disembodied skills themselves' were reduced to inventory items in organisational planning.<sup>16</sup> This one-dimensional approach to learning that was de-theorised and sanitised of any critical dimension.

Just-in-time or flexible education creates markets that require appropriate commodities for exchange. The ideal product comprised disaggregated units and fragmented courses that were reified from 'meaning making' and alienated from the producers of knowledge. These could be easily marketed, sold and delivered by instructors (rather than educators) to disembodied consumers anywhere in the world.

Mass 'higher education', credentialism and flexible lifelong-learning became the new imperatives for a national system of tertiary education. They were anathema to the pedagogical traditions of research-informed teaching and critical analysis espoused by modern universities. If the universities were unwilling or unable to meet this mass demand, the state would have to reorient policies and resources to new providers who were and make old and new compete.

Paradoxically, research itself enjoyed an elevated status. If information was the raw material to fuel the knowledge component of goods and services, it was new technologies, including bio-technologies that gave information its value. Basic research conducted by mainly US-based academics, and funded by the state, had

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<sup>15</sup> David F. Noble (2002) 'Technology and the commodification of higher education', 53 *Monthly Review* March 2002, 26

<sup>16</sup> Noble (2002)

laid the foundations for the dynamic IT revolution in the 1970s and 1980s.<sup>17</sup> By the 1990s, however, as Castells points out, advanced academic research and a good education system were not enough to enhance the competitive advantage of a country or its firms. Nor could corporations afford the huge cost of such research. To participate in a dynamic globalised information economy, governments needed to deepen the linkages between science, technology and business, supported by national and international policies. They also needed to promote a more strategic focus in high-end postgraduate education, of the genuine kind, that would produce the next generation of innovators. This reorientation dramatically altered the nature, objectives and motivation for research in the university. Social science, humanities and cultural disciplines were marginalised and the fundamental tenets of critical and independent scholarly inquiry threatened.

Not all governments or all universities could play in this arena. The US had the advantage of being the established centre of the high cost, dynamic and innovative information and bio- technology research. Other advanced capitalist economies, such as the EU, invested heavily in a research and technology catch up. Some states, such as Singapore, South Korea and Taiwan, had been strategically building their technological research capacity for some years, or like India invested belatedly but heavily in information technology research and expertise to secure a niche market for their firms and élite workers in the globalised economy. Countries without the capital, basic infrastructure, research facilities or expertise faced an intensification of the already deep technological divide.

These new teaching and research pathways required the surrender of the universities to a market-driven paradigm. Doing so would mean a radical realignment of nationally centred university systems that had been designed to serve a diversity of social, political and economic functions. As governments and university leaders grappled with these new imperatives they could not begin from a zero base. New antagonistic functions had to be grafted onto and displace, in part at least, their deeply embedded counterparts. This would generate or intensify schisms would occur or re-emerge within and between universities and countries. Such challenges to the essence of the culture, form and governance of the modern university would be heavily contested and the resulting hybrid would be riddled with contradictory

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<sup>17</sup> Castells (2000), 126

elements. Yet failure to adjust successfully could see the university relegated to an increasingly peripheral role.

## **CREATING NEOLIBERAL UNIVERSITIES**

Government and institutional responses to these pressures was remarkably similar throughout the world. Such policy convergence reflects a high degree of international policy transfer, albeit through different routes. The transition was voluntary and variable in richer countries, facilitated primarily through the Organisation for Economic Cooperation and Development (OECD); and coercive and more formulaic in the global South, courtesy of the International Monetary Fund (IMF) and the World Bank Group. UNESCO, whose mandate theoretically places it at the centre of such policy debate, was marginalised like a relic of bygone years.<sup>18</sup>

During the 1990s governments in OECD countries began responding to calls from the private sector for cuts to taxation and state spending. Most adopted a more strategic approach to university funding and demanded greater efficiency and accountability. The nexus between tertiary education and the economy became more direct. The effect was seen within the universities as their offerings and institutional forms diversified, their internal relationships were reordered, and their outreach expanded. The accompanying management culture and ethos was hierarchical, differentiated, undercut solidarity and appealed to individualism. This intensified in the 1990s as government policies mandated private tuition fees and flexible employment. Fees and loans encouraged an instrumentalist and depoliticised attitude amongst the student body. More accountability was demanded for fewer resources, as universities became the handmaidens to governments' grand schemes for knowledge driven economic growth and innovation.

Governments reshaped university research through statements of policy and funding priorities and 'growth and innovation' strategies to improve their country's global competitiveness. Major injections of funding were targeted towards information and biological technologies and other areas of innovation, with occasional gestures towards subjects of particular political sensitivity. Universities and academics were

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<sup>18</sup> A prime example was the World Conference on Higher Education promoted by UNESCO in 1998. Subsequent initiatives saw uncomfortable alliances with the World Bank or OECD whose missions were philosophically distinct. For a discussion of UNESCO's role, in the context of attempts to rescue culture from the market, see Jane Kelsey (forthcoming) 'Globalisation of Cultural Policymaking and the Hazards of Legal Seduction', in Graham Murdoch and Janet Wasko (eds) *Media in the Age of Marketisation*, Cresskill NJ: Hampton Press

expected to patent and commercialise their research, find end-user purchasers and enter commercial or developmental collaborations with business. Competitive mechanisms were developed to allocate generic research funds based on quantitative performance indicators, such as external research earnings, quantity of publication outputs and PhD completions. This combination of measures fostered a research climate that was biased towards applied hard-sciences and risked depleting research capacity in other disciplines that would be difficult to restore.

McMurtry describes a 'systematic reduction of the historically hard won social institution of education to a commodity for private purchase and sale'.<sup>19</sup> University income depended increasingly on marketing and performance on rankable criteria. Hyperbole reined especially appeals to and claims of 'excellence' whose only criterion, Readings suggests, was 'performativity'. Academic judgments of value were replaced by 'formulaic and algorithmic representations',<sup>20</sup> and academic performance became time-sensitive to funding or reporting dates.

In a cutting critique of the managerialist university culture, Malcolm Saunders identified a new imperative (income) and a new way of achieving it (obedience).<sup>21</sup> Academic loyalty was now to the prosperity of the university as a business enterprise, not to their disciplines. Their primary purpose was to enhance the university's image and income. Some capitalised on their newfound 'academic capital', especially in the applied sciences. Non-compliance was disloyal. Self-discipline and conformity compressed the critical space. Leadership exhibited even higher organisational loyalty and managerial solidarity.

There was significant variation within that broad policy convergence reflecting history, culture, capacities and political choices. Federal and state governments in the US boosted the private sector's role in education, while investing heavily in research and development. Canadian states, in the shadow of NAFTA, experienced a combination of neoliberalism and more traditional policies. European Union members sought to enhance their collective international competitiveness through the 1997 Lisbon Convention on recognition of higher education qualifications and the 1999 Bologna Declaration to establish comparability and minimum standards in degrees. This was supported by large-scale investments in strategic research The

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<sup>19</sup> McMurtry (1991), 216

<sup>20</sup> quoting Polster and Newson

<sup>21</sup> Malcolm Saunders (2006) 'The Madness and Malady of Managerialism', *Quadrant* March 2006, 9

United Kingdom joined in rather tentatively, following the conservative pro-market experience of Thatcherism. The Scandinavians retained a stronger role for the state, with Finland electing to invest heavily in building its technological and research capacity in the post-Soviet 1990s. The Japanese government retained tight regulatory control over its university system, enhancing historically strong private sector/university research linkages. Successive New Zealand governments embraced a strongly market-driven approach to both teaching and research. Australia followed a more muted path, but was catching up by 2006

Throughout this period the Centre for Educational Research and Innovation (CERI) at the OECD served as the institutional conduit for research, analysis and exchange about higher education. This was complemented by the diffusion of ideas amongst a cadre of policy entrepreneurs who began to dominate official discourse and publications on the reform of higher education throughout the English speaking 'developed' world.

Countries and universities of the global South experienced a dual assault from externally imposed structural adjustment programmes and internally generated neoliberalism. During the 1990s the World Bank became their dominant source of education policy, despite funding only 0.5 percent of education spending in 'developing' countries.<sup>22</sup> Its disproportionate influence was felt through policy advice, consultants, offshore training of officials, selectively authored reports, as well as debt conditionalities.

The Bank's strategy to refocus attention and resources on primary and secondary education and commercialise tertiary education was first set out in 1994,<sup>23</sup> and updated in its *Education Sector Strategy* 1999 in line with the Bank's World Development Report entitled *Knowledge for Development*. That approach was revisited in 2002 because of what the Bank called persisting problems of sustainability, inequality, quality, relevance and governance,<sup>24</sup> and what critics would call policy failure. Governments were now advised that higher education was extremely important because of globalisation, knowledge-driven economic growth, new technologies, the pivotal role of knowledge production and the need for life long

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<sup>22</sup> Eugene Wall (undated) 'Global Funding Patterns – the role of the World Bank', Irish Federation of University Teachers

<sup>23</sup> World Bank (1994) *Higher Education. Lessons of Experience*. Washington: World Bank

<sup>24</sup> World Bank (2002) *Constructing Knowledge Societies: New Challenges for Tertiary Education*, Washington: World Bank

learning. But they were still to achieve this through the market. The Bank said it recognised the need for balance, including the 'critical humanistic and social capital' dimensions of tertiary education and its 'role as an international public good'.<sup>25</sup> But the state's role, reflecting the fashionable theories of new institutional economics, was to create an enabling framework that encouraged innovation and responsiveness through market mechanisms.

In 2006, in terms redolent of Noble's 'training', Bank officials advocate socially inclusive, lifelong and autonomous learning of applied skills and training. They argue that dynamic changes in technology and new applications for knowledge require the continuous restructuring of education systems. Harnessing information technologies, exploiting asynchronous distance learning and using such resources as digital textbooks can best achieve that flexibility.<sup>26</sup> Potential partners for these 'enabling' states include franchise universities, corporate universities, media companies, libraries and education brokers.<sup>27</sup>

The Bank's policy role was complemented by its private sector lending agency, the International Finance Corporation (IFC), which began targeting private education sector and markets in tertiary education and vocational training in 2000.<sup>28</sup> The IFC declared a commitment to business, development and poverty alleviation objectives. Priorities included technology based education companies and projects, financing of student loans and ancillary services such as cross-border accreditation, IT development and for-profit education companies. However, all investments had to meet the IFC's required rate of return and only be made in an enabling policy environment that reduced or eliminated restrictive regulations on the education market.<sup>29</sup>

In theory, governments could decide whether to cooperate with this agenda. In practice fiscal crises generally left few alternatives. Mark Ginsberg et al recount how the Romanian government began unofficially transforming its university system under IMF tutelage during the 'socialist' era; this intensified with a World Bank higher education reform package from 1996 to 2002. Equally, the embrace of neoliberalism

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<sup>25</sup> World Bank (2002), 4

<sup>26</sup> James Salmi (2006) 'Constructing Knowledge Societies. New Challenges for Education', 2(1) *Journal of Education for International Development*,

<sup>27</sup> 'Tertiary Education and Economic Growth: The Bank Strategy', Brazil HD Team Seminar, 7 February 2006 (power point slides)

<sup>28</sup> International Finance Corporation (2001), *Investing in Private Education: IFC Strategic Directions*, Washington: IFC

<sup>29</sup> IFC (2001), 3

can be genuinely voluntarily, as Daniel Schugurensky and Adam Davidson-Harden illustrate with Chile during and after the Pinochet regime.<sup>30</sup> Philip Altbach likewise observes how some nationals who study abroad become ‘carriers of an international academic culture ... that reflects the norms and values of the major metropolitan universities.’<sup>31</sup> On returning they seek to transform their home universities using models that lack relevance, or are recruited by private competitors whose presence itself forces the public university system to restructure.

The end product of this policy-driven transformation was a hybrid form of university, the modern part of which and its neoliberal Janus-face were intrinsically contradictory.

## **THE GLOBAL HIGHER EDUCATION MARKET**

In a *Guardian* article on marketised education, British journalist and activist George Monbiot reported the complaint of European Roundtable of Industrialists in 1998 that:

All too often the education process is entrusted to people who appear to have no understanding of industry and the path of progress. The provision of education is a market opportunity and should be treated as such.<sup>32</sup>

This neat blend of market-driven demand and supply excluded any role for those, such as universities, whose vision of education extended beyond the needs of industry and economic growth. Yet those same universities were being impelled by government policies and fiscal constraints to travel that path. Those who elected to do so would have to compete with each other and private companies in a dynamic and unstable international market to which they were structurally and culturally unsuited. The already fuzzy distinction between public and private would blur even further and financially stressed universities would be required to assume financial and reputational risks that, if they failed, would leave them even more vulnerable. For most universities in the global South, there was no option. They were simply target markets for a parasitic and exploitive new global industry.

It is important to distinguish here between commercial and academic motives for internationalisation. International engagement has always been seen as a defining element of the community of scholars and the expansion of knowledge, albeit often

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<sup>30</sup> Schugurensky and Davidson-Harden (2003)

<sup>31</sup> Altbach (2004), 12

<sup>32</sup> <http://www.monbiot.com/archives/2001/03/21/a-corporate-aristocracy/> (accessed 12 May 2006)

confined to the rich countries of the global North. Chris Duke describes this as 'deep internationalisation', akin to deep learning.<sup>33</sup> Numerous contemporary initiatives have harnessed new technologies and increased mobility of people and ideas to serve this end. The Observatory on Borderless Higher Education identified, as at February 2006, eighteen 'alliances of multi-disciplinary institutions' and six 'alliances of specialist institutions'.<sup>34</sup> Almost all involved solely or predominantly rich countries, with minority participation from Asia and Eastern Europe. All claim to collaborate for academic ends, except for Universities 21 and the Association of Pacific Rim Universities that are consortiums of second-tier elite universities whose stated aims are to promote entrepreneurial opportunities for their members. Both were Australian and New Zealand initiatives and reflect their strong market-driven tertiary education strategy. Examples also exist in the global South, such as the Association of Universities of Montevideo Group to promote studies into common subregional problems.<sup>35</sup>

In parallel, the burgeoning global education market expanded to become a multi-billion dollar industry that traverses a broad spectrum of activities (see Figure 1). This discussion highlights five central elements of the industry: commodification of academics and students; the blurring of public and private; e-education; para-education services; and education financing. Most of these have developed over the last decade as purely commercial ventures, with little if any interest in genuine education or the needs of their target countries.<sup>36</sup> As they expand and transform, the international education industry will thicken. The universities are deeply implicated in their operations, both commercially and because they are shaping the market place in ways that bear no resemblance to deep internationalisation

### ***Commodification of academics and students***

The education market assumes the commodification of both academic labour and students. Recruiting foreign students purely as revenue streams has expanded rapidly in the 1990s, especially after China relaxed restrictions on movement of people and capital. It focuses on the mass demand for (re-)training, English language

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<sup>33</sup> Chris Duke (2002) 'Cyberbole, Commerce, and Internationalisation: 'Desperate Hope and Desperate Fear' 6(2) *Journal of Studies in International Education*, 93

<sup>34</sup> Observatory, 'Key Issues, February 2006: International University Consortia, Networks and Associations

<sup>35</sup> (G-G 16)

<sup>36</sup> The term was coined by the conservative Cato Institute: C. Lips (2000) "'Edupreneurs": A survey of for-profit education', Policy Analysis #386, Washington: Cato Institute

and 'business' degrees. Individually, this is a matter of individual choice for those who can afford to do so. Systemically, the flow of academic talent from South to North creates a one-way trade where the global North gains their fees, often backed by home country scholarships, and the South loses talent.

Public and private providers compete for this customer base on the basis of brand name, brand loyalty, culture, location, market dominance, price, end-use and/or immigration opportunities for students and their families. The result is a highly stratified system. Entry into this global market carries a price in money, access to networks, databases, infrastructure and expertise that is beyond most countries of the South. The US has been the main beneficiary of this 'export' drive, but is refocusing on foreign investment or Internet delivery top following its security and immigration crackdown. Some Southern governments do participate as commercial hubs in their region, usually in collaboration with private foreign companies - Chile in Latin America, Egypt in the Arabic speaking world,<sup>37</sup> Romania into Eastern Europe.<sup>38</sup>

These markets are fickle. Countries and institutions in strong competitive positions have been able diversify their source countries and spread the risk. They generally provide a quality experience as part of their investment. Others, like New Zealand universities, compete on cost and treat foreign students as 'cheques on legs'<sup>39</sup> to boost services export earnings and compensate for cuts in public spending. As a result, they face significant risk from volatile markets, competition, foreign crises, reputational fallout, anti-immigrant sentiment and institutional backlash.

The mass education market has been a bonanza for private firms. Strayer Education, created by a former computer-programming instructor in 1989 with a \$300,000 stake, was the first to list on the stock market in July 1996, raising \$31.3 million. The two largest public US companies, de Vry and Apollo Group, listed in 1991 and 1994 respectively. In January 2006 the market capitalisation of Apollo, whose networks of institutions include the University of Phoenix, exceeded \$10 billion. De Vry employed 4800 people with a comparatively small capitalisation of \$1.34 billion. The companies are accountable only to their shareholders. Financial scrutiny comes from the Security and Exchange Commission. Accreditation to determine their eligibility for

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<sup>37</sup> Altbach (2004)

<sup>38</sup> Mark Ginsberg, Oscar Espinoza, Simona Popa, Mayumi Terano (2003) 'Privatisation, Domestic Marketisation and International Commercialisation of Higher Education: vulnerabilities and opportunities for Chile and Romania within the framework of WTO/GATS' 1(3) *Globalisation, Societies and Education* 413

<sup>39</sup> Duke attributes this term to Professor David Robertson.

federal funds is administered by mainly private agencies, with claims to Title IV subsidies audited by the US Department of Education. In December 2005 a Department of Education audit found Apollo had improperly claimed \$10 million in federal student subsidies.<sup>40</sup>

Less scrupulous players offer dubious qualifications as immigration scams. Public institutions are tempted to prostitute their qualifications in borderline commercial making operations, especially outside their home country. An example is the New Zealand Pacific Training College, a Fijian franchise of an Australian public tertiary provider, that delivers very basic qualifications at a high price to domestic and foreign, mainly Chinese, students wanting to increase their points for immigration.

Academic labour is also disembodied and commodified. Contrary to Castells' early claim that Taylorisation is passé, Noble describes the Taylorisation of instructional labour with specialisations in course design, development, content, delivery and distribution. The devolution of employment, funding and line management in the multidisciplinary university creates an internally competitive multi-versity whose differential academic standards and employment practices pass without effective scrutiny. Budget and financial decisions made by non-academics become divorced from and drive academic life. Discretionary payments to individual staff erode collective bargaining and intensify inequalities between disciplines and forms of scholarship. Unions find it difficult to maintain their power and relevance, especially in policy climates that promote labour market deregulation and deunionisation. As open governance structures become marginalised they also become redundant. There is nowhere and no one to protect academic freedom or the independence and integrity of academic labour.

William Bruneau observes parallel commodification of academic research. Increasingly, academics are valued by their research performance and the money they generate. High-achievers are poached within countries or a strategically calculated percentage of them is purchased on the international market for the purposes of gaming in competitive funding rounds. The sale of research capacity to private interests extends beyond selling results, to buying research staff and their future intellectual work.<sup>41</sup> University/business collaborations deepen the influence of

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<sup>40</sup> Baird (2006), 'Education Services. Class Notes', January 17, 2006, 6

<sup>41</sup> William Bruneau (1998), 'Privatization in School and University: renewal or Apostasy?' in M. Charlton and P. Barker, eds, *Crosscurrents: Contemporary Political Issues*, Toronto: ITP Nelson, 472

corporate priorities and preferences and compress critical space. There are no clear borderlines for sponsors - or for entrepreneurial academics who might develop spin-off companies or create embedded businesses within their faculties and use their doctoral students to advance their commercial research under conditions of intellectual secrecy. Closed spaces begin to populate the university as commercial confidentiality and private control of knowledge prevail over critical enquiry, academic freedom and collegial accountability.

### ***When Public becomes Private***

Some public universities move well beyond outsourcing or full-fee paying foreign students to offer education as a purely commercial venture. These require an initial investment that diverts funds from core purposes and assumption of debt, in the expectation of lucrative returns. It also creates risks of severe drains on the university if the venture takes longer to established or fails.

It is common to see foreign investment through satellite campuses, franchising the delivery of qualifications and joint ventures, or delivery of courses offshore by visiting academics/instructors. This enables traditional universities to retain control over quality, content and delivery as they wish. In the process they crowd out indigenous norms, values, culture, language, pedagogy and knowledge. Paschal Mihyo from the Association of African Universities calls it 'intellectual dumping'. Modules, courses and degrees are either taught unchanged or designed by freelance consultants; neither is subject to audit control and accountability mechanisms in the host country. With no representation on the governing boards of these companies, it becomes impossible for national governments to regulate content to promote development and national goals.<sup>42</sup> Countries in desperate need of support to develop their capacity in science and technology instead receive a super-saturation of courses they can already supply. Those competitors create 'wage havens' and 'internal migration' that deplete the public university sector for future generations.<sup>43</sup>

A more radical alternative blends the public and private through a separate legal entity that capitalises on the university's brand name. In 1998, for example, Melbourne University Private was established as a limited liability company whose sole shareholder was the public University of Melbourne. Tertiary unions saw the

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<sup>42</sup> Mihyo (2004)

<sup>43</sup> Mihyo (2004), 17

venture as a strategy to erode academic pay and conditions and advance demands for deregulation of universities and academic labour markets. The company offered 'client-focused corporate education programs and advanced professional English language training', while still proclaiming a commitment to academic freedom and maintaining the highest possible standards in relation to teaching and research.<sup>44</sup> All programmes were developed for a specific corporate or government client or industry sector need. These included a Master of Public Private Partnerships, renamed a Master of Public Infrastructure, delivered through the School of Enterprise. The School of International Development offered Masters and PhD degrees and ran development projects in various parts of Asia.

By 2005 it had reached only one quarter well of its target 2500 students by 2008. Melbourne Private was merged into the University of Melbourne in June 2005 having lost A\$20 million over eight years. While the University's Vice-Chancellor hailed it fostering competition and the introduction domestic fee-paying students at public universities, critics described it as a fiasco that diverted public university money to prop up an inappropriate business model of education.<sup>45</sup>

Melbourne University Private also owned a network of franchised Hawthorn English language centres in Melbourne, Vancouver, Edinburgh, Muscat, Singapore and Auckland – the latter being owned by Lion Nathan School of Business Ltd, a subsidiary of a TransTasman wine and beer conglomerate. Upon 'merger' the franchiser was also taken over by the (public) University of Melbourne.

### ***E-Education***

Private for-profit e-education companies are most prominent in the US. Their main product is training, especially for 'second-chance' adult learners, offered on site and on line. The industry gained ground during the 1990s, as technologies advanced, to be a \$3.5 billion-a-year business by 1998. Commentators at the time remarked that the market was volatile and risky, with heavy regulations restricting opportunities for expansion.<sup>46</sup>

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<sup>44</sup> Melbourne University Private 'About us', <http://www.muprivate.edu.au/index.php?id=53> (accessed 12 May 2006); see also Annual Report 2003 <http://www.muprivate.edu.au/index.php?id=1320> (accessed 12 May 2006)

<sup>45</sup> 'Merger spells end of Melbourne Uni Private', *The Age*, 8 June 2005

<sup>46</sup> Kim Strosnider, 'For-Profit Higher Education Sees Booming Enrolments and Revenues' *The Chronicle of Higher Education*, 23 January 1998

The most extreme variant is the 'virtual university' that sells educational products on-line to under-served locations, mainly into richer developing countries. Their complex requirements have generated consortia of 'broadcasters and carriers, software producers, publishing houses, and speculative investors as well as established public and private universities and new private and for-profit universities'.<sup>47</sup> Chris Duke notes an OECD review of e-learning in 2001 that criticised the exaggerated potential of virtual universities and warns of the risk that 'cyberbole and market ambition drown out questions as to what really works'.

The prototype 'virtual university' is Universitas 21 Global (U21G), established in 2001 as a subsidiary of the Universitas 21 consortium of 18 second-tier elite universities from 10 countries. The shareholding universities are to be paid a licensing fee for use of their brand names by U21G. This purely commercial venture was the brainchild of University of Melbourne Vice-Chancellor Alan Gilbert. The original proposal involved a joint venture between U21 universities and Rupert Murdoch's News Corporation. A public outcry by academics saw Murdoch replaced by Thomson Learning, the education and training services arm of Canadian media conglomerate Thomson Corporation. The Universities of Toronto and Michigan refused to participate.

The U21G secretariat is based in Singapore and headed by the former president of IBM India. The 'virtual university' provides highly vocational and easily packaged and transmitted courses into China and other emerging markets. Courseware design is contracted out, not necessarily to academics from the shareholding universities. Universitas 21 Pedagogica (U21P), comprising an academic from each participating university, was established to oversee quality control, although students have no guarantee that their U21G qualification will be recognised internationally. U21P rejected all five of the initial courses referred to it.<sup>48</sup> As of January 2006, U21G offered an on-line MBA, a Master of Science in Information Systems Management, a Master of Science in Tourism and Travel Management with the University of Nottingham, and had announced a postgraduate certificate in 'Entrepreneurship and Family Enterprise' jointly with the Indian Institute of Management in Bangalore.

Like Melbourne University Private, the projected 5000 students by 2004 failed to materialise; some 600 students from India, Singapore and the Middle East were

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<sup>47</sup> Duke (2002), 109

<sup>48</sup> University of Glasgow, 'Court: Minutes of the meeting held in the Senate Room on Wednesday 7 May 2003', [www.gla.ac.uk/courtoffice/courtminutes/7may2003.htm](http://www.gla.ac.uk/courtoffice/courtminutes/7may2003.htm) (accessed 12 May 2006)

enrolled by mid-2005 paying fees around US\$12,000.<sup>49</sup> The Chinese government had not yet granted permission to operate there. Despite this KPMG speculatively valued the company within the range of US\$41 million to US\$144 million in 2005.<sup>50</sup> This valuation was all the more remarkable given that the venture had fallen well behind projections to repay the initial investment of US\$50 million by six to 9 years;<sup>51</sup> instead shareholders were asked for a further multi-million dollar injection in 2005. The University of Glasgow declined. But the dilemma for the public university shareholders is that they cannot afford for such a high profile venture that bears their brand names to fail.

Even more remote from genuine 'education' is the lucrative e-education market in corporate training. This ranges from tailored and packaged programmes by mega-firms like IBM or franchise operations like Dale Carnegie,<sup>52</sup> to standardised in-house corporate programmes for the likes of McDonalds that are delivered to every branch throughout the world.

In addition to their participation in educational consortia, media and publishing interests like Thomson Learning or Pearson PIC and IT firms like Microsoft increasingly control the supply of and access to information through e-publishing of courseware, materials and journals. Their technological and market dominance, mass purchasing power and global reach allow them to determine the available knowledge and foreclose critical perspectives. Universities that are unable to afford their packages face serious gaps in their collections. While the World Bank and IFC urge universities of the South to embrace this option, they ignore more progressive alternatives. Most notably Massachusetts Institute of Technology has a 10-year commitment to providing open courseware, on the basis that 'the syllabus and lecture notes are not an education, the education is what you do with the materials'.<sup>53</sup>

### ***Para-education services***

The global education market has spun off a whole range of new commercial opportunities, such as corporate trainers, education brokers, consultancies, public

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<sup>49</sup> Aleksander Zivojinovic, 'Terra incognita: can U21 Global make a business out of online MBAs?' March 28-April 10, 2005 *Canadian Business*.

<sup>50</sup> The University of Melbourne, 'Universitas 21 Global Pte Ltd Due Diligence Committee, Report to Council (Meeting of 14 November 2005), [www.unimelb.edu.au/Council/minutes/nov05.html](http://www.unimelb.edu.au/Council/minutes/nov05.html) (accessed 12 May 2006)

<sup>51</sup> U21global Joint Venture Business Plan 15 December 2000, p.56

<sup>52</sup> <http://www.dalecarnegie.com/> (accessed 12 May 2006)

<sup>53</sup> Noble (2002), quoting Steven Lerman

relations firms, hard copy and on-line publishers, rating and ranking agencies, franchising operations, book rental companies, education stock brokers and analysts. Indeed, the World Bank's IFC operates its own EdInvest facility that provides consultancy, research, training, conferences, information provision to promote private investment around the world, not just in the global South.<sup>54</sup>

Oxford-based Brookes Online observes how of 'unbundling' components of the further and higher education 'supply chain' allows successful outsourcing, including to joint ventures partly owned by public universities.<sup>55</sup> This is a familiar feature of privatisation of the private sector in the neoliberal era. In the universities it extends beyond ancillary services such as cleaning and printing to core activities, such as library services, including collections management, cataloguing, reference and library management.<sup>56</sup> A review by Todd Spires and J.B. Hill of these developments in North America concludes that outsourcing can impact negatively on staff and sometimes on quality, but can also provide needed monetary relief. The deeper concern was the displacement of qualified professionals whose ethical obligation is to maintain the library's position as one of the 'building blocks of democracy'.<sup>57</sup>

The explosion of cross-border supply has created a need for independent accreditation and quality assurance. Numerous commentators have documented the difficulties in developing a global agency to certify accreditation and quality across a diversity of countries and providers, or even mutual recognition agreements.<sup>58</sup> There are a number of non-commercial options. The Arusha Convention established a regulatory framework for mutual recognition of qualifications and accreditation in Africa in 1981.<sup>59</sup> European Union members are signatories to the Lisbon and Bologna instruments. Different professions have developed core guidelines and standards to promote consistency and transportability of qualifications, but there is

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<sup>54</sup> <http://www.ifc.org/edinvest/> (accessed 12 May 2006)

<sup>55</sup> Brookes Online (2001), 'Market Study: Technology-enhanced off-campus programmes', September 2001, [www.brookes.ac.uk](http://www.brookes.ac.uk) (accessed 12 May 2006)

<sup>56</sup> Carter, Kathy (1997) 'Outsourced cataloguing and physical processing at the University of Alberta Library' in Wilson, Karen A. and Marylou Colver, eds. *Outsourcing Library Technical Services Operations*, Chicago: American Library Association, 1997: 3;

<sup>57</sup> Todd Spires and J.B. Hill, 'Outsourcing and Privatization in Libraries: Ethical Concerns', [exlibris.memphis.edu/ethics21/papers/spireshill.pdf](http://exlibris.memphis.edu/ethics21/papers/spireshill.pdf)

<sup>58</sup> For example, Insung Jung (2005), 'Implications of WTO/GATS on Quality Assurance of Distance Education (including e-Learning) for Higher Education', paper for UNESCO Regional Seminar on the Implications of WTO/GATS on Higher Education in Asia and the Pacific, Seoul, 27-29 April 2005; Observatory on Borderless Higher Education (2003), 'Quality Assurance in Borderless Higher Education: six initiatives', 11 *Briefing Note* May 2003

<sup>59</sup> The Regional Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and other Academic Qualifications in Higher Education in the African States, adopted in Arusha, Tanzania 5 December 1981

no compulsion for providers to adopt them.<sup>60</sup> Universitas 21 Pedagogica, the in-house quality assurance vehicle for U21G, also plans to offer its services and branding more broadly.

Perhaps the most infamous private initiative is the Global Alliance for Transnational Education (GATE). GATE was established in 1995 by Glenn R. Jones, the owner of Jones International University that self-describes as the first fully online, accredited international university. For several years it enjoyed considerable credibility. In 1997 it was hailed as 'a new international alliance of business, higher education and government dedicated to principled advocacy for transnational educational programs'.<sup>61</sup> However, most of its highly credible participants withdrew when Jones assumed greater control to advance his own commercial venture. In August 2003 Jones International Ltd announced it was 'donating' GATE to the United States Distance Learning Association (USDLA), as private non-profit US entity.

As with other global markets, the education industry has also generated demand for information brokers, marketers and consultants. The Observatory on Borderless Higher Education describes itself as 'an environmental scanning facility on higher education issues that offers an efficient and cost-effective way for subscribers to keep abreast of borderless developments globally'.<sup>62</sup> Begun as an initiative of the Association of Commonwealth Universities and Universities UK in 2001 it also received seed funding the Higher Education Funding Council for England. Its international advisory group mainly comprises senior managers from leading public UK universities. The Observatory has become fully funded through subscriptions and consultancy, claiming over 130 institutional subscribers from more than twenty countries. The subscriber service provides access to surveys and benchmarking, while its consultancy services specialise in e-learning, market research, institutional strategic planning, and inquiries into particular institutions, countries or initiatives.

The short history of the Higher Education Information Services Trust encapsulates the rapid transformation of tertiary education.<sup>63</sup> HEIS began as a charitable trust in Britain to build awareness and understanding of post-compulsory education and

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<sup>60</sup> For example, the ICOM-ICTOP Curricula Guidelines for Museum Professional Development; see Patrick Boylan, 'The implications of current moves towards the globalisation of standards for university-level qualifications', undated, [ictop.icom.museum/boylan-web.html](http://ictop.icom.museum/boylan-web.html)

<sup>61</sup> Marjorie Peace Lenn, 'The Global Alliance for Transnational Education: Transnational Education and the Quality Imperative'. EUNIS97, Grenoble (France) 9-11 September 1997, [www.eunis.org/html3/congres/EUNIS97/papers/031901.html](http://www.eunis.org/html3/congres/EUNIS97/papers/031901.html) (accessed 12 May 2006)

<sup>62</sup> <http://www.obhe.ac.uk> (accessed 12 May 2006)

<sup>63</sup> <http://www.heist.co.uk/heist/history.cfm?a=a> (accessed 12 May 2006)

training in 1987 and developed its international consultancy and publications during the 1990s. In 1999 its trading activity was incorporated and the firm was sold in 2001 to become part of Havas, one of the world's largest marketing and communications firms.

### ***Education Financing***

Financial services firms have created their own niche education markets. Not surprisingly they are strongest in the US. Financial analyst Robert W. Baird and Co describes itself as an 80 year old 'employee-owned, international wealth management, capital markets, private equity and asset management firm' authorised by the US Financial Services Authority.<sup>64</sup> Among its products is Baird a weekly e-newsletter entitled 'Class Notes: Weekly Insights on the Education Industry', covering business, market and investment developments in education. It maintains an education composite of listed stocks, and in addition to movements in share prices provides detailed accounts of changes in US state and federal policy and regulations, firm-specific investment and personnel decisions, granting or withdrawal of accreditation, international market developments and general scuttle buck.

The International Education Finance Corporation processes on-line student loan applications in association with international loan guarantee agencies and lenders.<sup>65</sup> US and Canadian students can apply for government loan schemes, while international students attending higher education institutions in almost 40 countries can secure private loans, subject to co-signing by a US citizen or permanent resident.

Education financing is a growing niche market for the global financial services industry. Alongside those who control information technology, these firms will increasingly control, directly and indirectly, the capital infrastructure on which the global industry depends.

## **GATS & THE GLOBAL EDUCATION INDUSTRY**

This multifaceted global market requires unfettered mobility of capital, information, executive and specialist personnel and consumers. This means eliminating barriers

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<sup>64</sup> <http://institute.thejournal.com/classnotes/> (accessed 12 May 2006)

<sup>65</sup> <http://www.iefc.com/index.php?Cid=0001> (accessed 12 May 2006)

to access and operate in markets, pro-industry regulation and parity across public and private and foreign and national providers.

The General Agreement on Trade in Services is the primary instrument for liberating services markets. To overcome resistance from Southern governments, led by India, it was negotiated as a discrete, but ultimately integral part of the Uruguay round of trade that culminated in the creation of the World Trade Organisation (WTO) in 1995. The reluctance of all governments to have generic rules that applied to all services resulted in a unique and complex legal architecture. The treaty contains some generic rules, but allows governments to select and schedule which services they will open to foreign providers on a non-discriminatory basis and to what extent.<sup>66</sup> Article V requires all regional and bilateral 'trade in services' agreements that involve WTO Members to be GATS-compatible and preferably GATS-plus.

The scheduling guidelines provide five categories under the heading Education Services: primary, secondary, higher, adult and other. 'Higher' includes sub-degree technical and vocational education and education leading to a university degree or equivalent. 'Adult' relates to education of adults outside the regular education system, while 'Other' covers all education services not classified elsewhere. Only 30 WTO Members originally made commitments on Education Services, the fewest after Energy Services. The highest number related to study abroad. These limited commitments reflected prevailing government perceptions of education as a public good and the infant nature of the education export industry. By 2002 the number of Members with education commitments had grown to 42 of 144 Members, 34 of which were from the South. This reflects the unconscionable practice of the US Trade Representative (USTR) and other Members to demand extensive services commitments as the price for agreeing to allow new, often Least Developed Countries to join the WTO.<sup>67</sup> Often this was simply to build precedents and a critical mass.

The agreement is a political policy instrument, reified through the filter of law to appear as objective rules. Consistent with the notion of 'education exports' it perceives education solely as a tradeable commodity and exclusively from the

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<sup>66</sup> See Jane Kelsey (2003) 'Legal Fetishism and the Contradictions of the GATS', *Globalisation, Societies and Education*, 1(3), 267-80

<sup>67</sup> Some of these are significant economic actors, such as China and potentially Russia. Many others are least developed and small vulnerable economies. See Roman Grynberg et al (2002), 'Paying the Price for Joining the WTO: A Comparative Assessment of Services Commitments by WTO Members and Acceding Countries', 41 (2002).

perspective of the foreign 'edupreneur'.<sup>68</sup> The 'modes of supply' (1: cross-border; 2: consumption abroad; 3: foreign investment; 4: temporary presence of services personnel) reflect different ways of conducting transactions internationally; even the student in Mode 2 or lecturer in Mode 4 exists as a disembodied factor to consume or produce, not to learn or to educate. Education is not even seen as a means in the process of capital accumulation. Hence, as Robertson, et al point out, 'aspects that may guide the expansion of education in the search for consumers may contradict those that guide education as an area of strategic investment for economic development'.<sup>69</sup>

The GATS disguises the asymmetry of power in this global market. The foundational principle of 'free trade' agreements, 'most favoured nation' (MFN) treatment, requires non-discrimination by those who make the commitments, not reciprocity from the beneficiaries. Governments that made an education commitment cannot discriminate between the sources of foreign education services, unless they lodged a specific exemption back in 1994; even then these are supposed to be temporary. Few governments had the foresight to protect their right to discriminate in anticipation of policies or technological changes that could create new vulnerabilities.

As a consequence national universities in target countries will face pressure from a proliferation of shorter, lower cost courses, often in subjects that are already well supplied. Mihyo points out 'allowing one supplier, which under the MFN principle means allowing all, may lead to closure or dilution of services if the number of students or scholarships fails to meet expectations'.<sup>70</sup> Furthermore, the GATS rules seek to discipline national monopolies in the interests of foreign 'edupreneur', but ignore the vertically integrated monopolies on a global level that dominate educational inputs, information and technologies and finance.

Moves to develop new disciplines on domestic regulation relating to qualification requirements and procedures, technical standards and licensing requirements under Article VI.4 aim to constrain this space even further.<sup>71</sup> While GATS defenders constantly cite the preambular that defends the right of all Members to regulation, this does not assert the sovereignty right to choose its form. Major powers are

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<sup>68</sup> The term was coined by the conservative Washington-based Cato Institute: C. Lips (2000) 'Edupreneurs': A survey of for-profit education', Policy Analysis #386, Washington: Cato Institute

<sup>69</sup> Robertson et al, (2002)

<sup>70</sup> Mihyo (2004), 13

<sup>71</sup> See Education International (2006) 'Note on GATS Domestic Regulation Disciplines and Education Services', April 2006

pressing for a 'necessity' test that would define require regulations to be least trade restrictive of the available options to their objectives; some also want criteria to define legitimate objectives. A second catchcry 'transparency' is being interpreted to require publication of a vast array of rules that are beyond the capacity of poorer countries and potentially consultation with potentially affected foreign providers prior to the adoption of such regulations. Some proposals would have this apply to all services, whether or not they were commitment in a country's schedule. Southern governments have objected that this violates their sovereignty, and assurances that development concerns will receive priority in the negotiations.

The exclusion for 'services supplied in the exercise of governmental authority' (Article 1.3) is often invoked by the GATS' defenders as protecting public education.<sup>72</sup> Such claims are hotly contested, as the exception applies only to services that are neither commercial nor delivered in competition with another supplier.<sup>73</sup> Even its arch advocate, Pierre Sauvé has conceded 'public private/frontiers' in education are 'inherently murky, vary significantly across countries and sectors, and are subject to change as markets, political dynamics and technology evolve.'<sup>74</sup>

The right to take measures to maintain social stability and coherence, or protect language or culture is not only absent from the text; any measures taken to secure those objectives that infringe the GATS rules are open to sanctions. Nor could a Member suspend its commitments, even temporarily, if the survival of its national universities was threatened. Such constraints also deprive the state of its ability to manage the conditions that ensure expansion of capital and the means to absorb its contradictions, and pose an intrinsic risk to the state's political legitimacy.

The standard fallback position is that all governments recognise the importance of public education and none would push the question through a complaint through the WTO's dispute settlement mechanism. That is probably correct - the response would be equivalent to the groundswell of international criticism that forced pharmaceutical

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<sup>72</sup> The draft OECD paper, "The GATS, Liberalisation, Public Services and Public Policy Objectives" documents how definitions of "public" and "private" differ widely among countries: "Various described as 'key', 'essential' or 'government' services, there is no agreement on what constitutes 'public' services." [paragraph 6, p. 2] Criteria for defining what is public and what is private "are likely to yield different answers in different countries and could also change within a given country over time." [paragraph 8, p. 3]

<sup>73</sup> The meaning of this provision is the subject of heated dispute; for example does charging fees or competition between public and private universities remove this protection; conversely would cross-subsidisation from commercial to unprofitable bring the activities within Article 1.3, or would it instead breach GATS Article XIII on monopolies?

<sup>74</sup> Pierre Sauvé (2002) 'The GATS: What's In, What's Out, What's all the Fuss About?', 3

companies to drop their challenge to South Africa and Brazil over generic drugs to deal with HIV-Aids. The potential impacts of commitments are more subtle: the normalisation of market-driven education policies, the chilling effect on government who are unsure of the consequences of breaching GATS commitments and the ability of the education industry and neoliberal governments to cite the threat of a WTO challenge to resist pressure to deviate from the market model.

### **GATS 2000**

The GATS contains an obligation of progressive liberalisation. The 1994 text included an inbuilt requirement for negotiations to extend scheduled commitments to begin in 2000, and to develop rules on subsidies, domestic regulation and emergency safeguards. In anticipation of GATS 2000, the WTO Secretariat prepared a background note that highlighted the economic importance of the education sector and described the changing structure of the market and emerging 'trade' issues.<sup>75</sup> A long list of barriers to trade included immigration restrictions, foreign currency controls, low portability and recognition of degrees, restrictions on foreign investment and recruitment of foreign teachers, government monopolies, limiting of subsidies to local institutions and students, prohibition on foreign acquisition of land, requirements for local membership of boards and differential tax treatment.

The three leading demandeurs for broader and deeper education commitments in GATS 2000 are the US, Australia and New Zealand. Each tabled a negotiating paper early in the round.<sup>76</sup> All were defensive in tone, with variations in emphasis. Their ritual acknowledgements of the public and social role of education and the 'right to regulate' were not simply rhetorical; they aimed to deflect strong criticism of those governments from their own domestic constituencies. Japan<sup>77</sup> and much later Switzerland<sup>78</sup> also tabled papers, the former taking an ambivalent position and the latter attempting to distinguish public from private education for domestic policy reasons.

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<sup>75</sup> WTO Council for Trade in Services (1998) 'Education Services. Background Note by the Secretariat', S/C/W/4923 September 1998

<sup>76</sup>WTO 'Communication from US. Higher (Tertiary) Education, Adult Education, and Training. Council for Trade in Services Session' S/CSS/W/23 18 December 2000; WTO 'Communication from New Zealand. Negotiating Proposal for Education Services. Council for Trade in Services Session' S/CSS/W/93 26 June 2001; WTO 'Communication from Australia. Negotiating Proposal for Education Services. Council for Trade in Services Session' S/CSS/W/110 1 October 2001

<sup>77</sup> WTO 'Communication from Japan. Negotiating Proposal for Education Services. Council for Trade in Services Session' S/CSS/W/137 15 March 2002

<sup>78</sup> WTO 'Communication from Switzerland. Education Services and the GATS: The Experience of Switzerland. Council for Trade in Services Session' TN/S/W39 4 April 2005

The US was the first to file its negotiating paper in December 2000. While education services were its fifth largest export earner, the administration had been rethinking its approach. The initial focus on attracting foreign students, mainly from Asia, to study in the US now conflicted with growing security concerns and tighter immigration laws. So the export focus shifted to distance education and foreign investment.<sup>79</sup> These industry priorities were reflected in ambitious goals for the GATS 2000 negotiations. The US negotiating paper set out a long list of 'barriers' that had been identified in an industry survey in 1998. These targeted prohibitions or restrictions on foreign investments; refusals or delays in licensing and authorisations; economic needs tests that required evidence of unfilled need; discriminatory treatment, including on tax and subsidies; 'inappropriate' restrictions on electronic transmission of course materials; limits on entry and employment of foreign specialist personnel; 'excessive' taxes on licensing and royalty payments and 'excessive' costs in repatriating earnings.

In return for these sweeping demands the US's own offer was confined to adult and other education, where it faced no risk. This imbalance partly reflected the complexities of federal/state jurisdiction and a preference for bilateral negotiations over the multilateral GATS process that the US could not control. But the primary reason was political. As in most countries the US Department of Education, and the universities who opposed the inclusion of Education in the GATS, were marginalised. By contrast, the National Committee for International Trade in Education (NCITE), the industry lobby that is affiliated to US Coalition of Services Industries, had a direct line to the USTR's office. The lobby played a crucial role Forum on Trade in Education Services that was convened by the OECD Centre for Educational Research and Innovation (CERI) and the USTR, along with the World Bank, in 2002 to dampen growing agitation against the GATS and education services.<sup>80</sup> A third important factor was the mercantilist approach of US education exporters who were wary that any US commitments that required domestic liberalisation could jeopardise their share of public subsidies.<sup>81</sup>

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<sup>79</sup> Karen Mundy and Mika Iga (2003) 'Hegemonic Exceptionalism and Legitimizing Bet-Hedging: paradoxes and lessons from the US and Japanese approaches to education services under the GATS' 1(3) *Globalisation, Societies and Education* 281, 301

<sup>80</sup> D. Hirsch (2002) 'Rapporteur's report from the OECD/US Forum on Trade in Educational Services', Washington DC, USA, 23-24 May 2002, Paris: OECD

<sup>81</sup> Mundy and Iga (2003), 301

Karen Mundy and Mika Iga describe the US as a 'hegemonic free rider' that engages in 'hegemonic exceptionalism':<sup>82</sup> But Altbach offers a timely reminder of the underlying asymmetry of the global market.<sup>83</sup> Even if the US made extensive commitments, it would never be a major education export market. The size, quality and diversification of the sector, US dominance of technology and ancillary services, and cultural introspection leave minimal room even for foreign niche operators. Where US nationals had an unmet demand, they would seek it overseas.

Japan adopted a similar position of promoting liberalisation while maintaining a largely impenetrable national system. As with other exports to Japan, the culture, language, customer preference and commercial practices would make it very difficult for foreign education providers to make inroads into the market. As at 2003 Japan had no registered foreign affiliated higher education institutions, although the liberalising Koizumi government was proposing to change the law. Japanese trade official Mika Iga speculated that the government might nevertheless offer services concessions, including on education, to keep the US and EU in WTO.<sup>84</sup>

These two case studies prompted Mundy and Iga to speculate on a reverse relationship between open trade and public spending in education. 'Actors with the most extensive public sector in education are the most agreeable to liberalisation in that sector [because] they are relatively confident in their national ability to buffer dislocations' and they continue to assume a basic, shared commitment to public sector capacity.<sup>85</sup>

New Zealand and Australia put the lie to that. As noted earlier, both countries had actively embraced the market model of tertiary education in the 1990s and were highly liberalised.<sup>86</sup> They were the only OECD countries to reduce their per capita spending on tertiary education in that period. The governments of both have aggressively promoted 'education exports' as a foreign exchange earner and a substitute for public funding for their universities.

New Zealand had made the most far-reaching GATS commitments in 1994, including (possibly by error) non-discriminatory access by foreign providers to public

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<sup>82</sup> Mundy and Iga, (2003)

<sup>83</sup> Philip G. Altbach (2003) 'Why the United States Will Not Be a Market for Foreign Higher Education products: A Case Against GATS', *International Higher Education*

<sup>84</sup> Mundy & Iga (2003), 308

<sup>85</sup> Mundy and Iga (2003), 312

<sup>86</sup> Jane Kelsey (1998) 'Privatising the Universities', *Journal of Law and Society*, 25(1) special issue: *University Law Schools for the Next Millennium*, 51

subsidies.<sup>87</sup> By 2005 trade in education was New Zealand's second largest services export, contributing an estimated NZ\$2.2 billion to the economy. A second motivation for pushing education exports had nothing to do with education: 'an ambitious outcome on services is necessary if there is to be an outcome also on agriculture and [non-agricultural market access]'.<sup>88</sup>

Australia had also made extensive higher education commitments in 1994, having helped to broker a breakthrough in the Uruguay round services negotiations. Australian trade figures for 2004 showed education services exports were one of Australia's fastest growing export sectors, contributing around A\$5.9 billion in export revenue, up 11 percent from the previous year.<sup>89</sup> Successive trade officials and ministers from both countries have displayed evangelical fervour when promoting education exports, interspersed with assurances that their position would not impact on 'public education'.

By 2005 the bilateral 'request and offer' approach to the GATS 2000 negotiations was paralysed. Offers were considered 'low quality' and mainly committed existing levels of liberalisation without opening new commercial opportunities. The European Union insisted that any movement on agriculture in the Doha round required tangible openings for its services industries to compensate. To break the deadlock it proposed two 'complementary approaches'. The unsuccessful option of minimum benchmarks would have required 'developed' WTO Members required to make commitments in 85 percent or 139 of the 163 services subsectors and developing countries in 57 percent. The EU's fallback proposal was for a critical mass of exporting countries in a particular sector to present plurilateral requests with model schedules to target Members who would be required to respond. Despite sustained resistance from many governments from the global South, led by Venezuela and Cuba, this negotiating modality was included in Annex C to the Ministerial Declaration of the Hong Kong Ministerial Conference in December 2005.

These complementary strategies posed risks for the education demandeurs. New Zealand trade officials warned their Minister that quantitative targets or pre-selection of sectors for plurilateral negotiations would encourage 'cherry-picking' and preclude

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<sup>87</sup> Jane Kelsey (2003) *Serving Whose Interests? A guide to NZ Commitments under the WTO General Agreement on Trade in Services*, Christchurch: ARENA, 20-21

<sup>88</sup> Ministry of Foreign Affairs and Trade (undated), 'WTO:DDA: GATS Negotiations: New Zealand's Position on the Discussion of "Complementary Approaches" to the Negotiating Modalities'.

<sup>89</sup> Department of Foreign Affairs and Trade (2005), *Trade 2005*, [http://www.dfat.gov.au/trade/trade2005/chapter\\_04.html](http://www.dfat.gov.au/trade/trade2005/chapter_04.html) (accessed 12 May 2006)

commitments in the sensitive 'niche' market of education services.<sup>90</sup> As plurilateral requests were expected to emanate from sector-based 'friends' groups of WTO Members, but there was only an 'education contact group', the New Zealand government initiated the 'friends of private education'. A plurilateral request for 'a meaningful commitment' in private higher and/or other education services was tabled by New Zealand in April 2006 on behalf of only four other WTO Members: Australia, Chinese Taipei, Malaysia and the United States.<sup>91</sup> The EU declined to join, as did other governments, such as Canada, that had included education in their initial requests. The 22 target countries remained secret, but were understood to concentrate on Latin America, the Arabian Gulf and Asia.<sup>92</sup>

The tone of the plurilateral request was strikingly defensive. Its preambular rhetoric sought to dispel impressions that the demandeurs' motives were purely mercenary. Cross-border education, they argued, would boost students' international understanding of their subjects and 'help to level the playing field in a knowledge-driven economy' by providing access to subjects or world leaders that might not otherwise be available. Moreover, 'properly regulated, increased trade in education opens the door to great economic, social, cultural and political benefits'. There was even an attachment of 'Question and Answers' in which '[t]he requesting members recognise that education does, and should, enjoy a special status in society' and that definitions of public and private education differ between countries.<sup>93</sup>

The substance of the request was also remarkably vague. It asked for liberalisation commitments on 'other education', which it left to individual Members to define. The request excluded rights of foreign firms to subsidies and applied only to 'private' education services, again as defined by each Member. Having acknowledged 'the futile search for a universal definition of "public" and "private"' it suggested the need for any such distinction could be avoided by treating education like other services, such as postal, telecommunications, medical and environmental services that have public and private elements, and describing only that part of education services they wished to commit. This concession and ellipsis confirmed the illusory nature of the

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<sup>90</sup> Ministry of Foreign Affairs and Trade, 'Services: Elements of Hong Kong Ministerial Text', Geneva to Wellington, 20 October 2005

<sup>91</sup> 'Private Education Services', <http://www.tradeobservatory.org/library.cfm?refid=78798> (accessed 12 May 2006)

<sup>92</sup> Argentina, Brazil, Chile, China, Hong Kong China, India, Indonesia, Japan, Korea, Malaysia, Oman, Philippines, Singapore, Pakistan, Saudi Arabia, Sri Lanka, Switzerland, Chinese Taipei, Thailand, Turkey, United Arab Emirates.

<sup>93</sup> Ministry of Foreign Affairs and Trade, 'WTO: GATS: Education Services Negotiations', 19 October 2005

'public services' exception in Article 1.3.

The minute number of demandeurs and indications of an equally minimalist response reflects two factors. First, governments remain staunchly resistant to losing control of their education systems. Numerous Asian and Latin American governments have publicly rejected such requests. In March 2006 the new Bolivian government of Evo Morales informed the WTO Secretariat it was withdrawing both the conditional initial and revised offers tabled by its predecessor.<sup>94</sup>

Some have gone further and condemned the inclusion of education in the GATS. South African Education Minister Professor Kader Asmal broke the secrecy surrounding GATS requests in 2003 and attacked Norway, the US, Kenya and New Zealand for making education requests. Treating education as a trade service would compromise quality at the public universities and derail the complex transformation of universities that were products of apartheid. Asmal argued that internationalization of higher education was more appropriately addressed using conventions and agreements outside of a trade policy regime.<sup>95</sup> While the Norwegian development community expressed dismay and apologised, trade negotiators initially maintained their demands;<sup>96</sup> a change of government in 2005 saw Norway withdraw all its education requests.

A second factor is the effectiveness of international and national campaigns. Education activists condemned the very idea of education as a tradeable commodity as soon as the GATS hit their radar in 1993. But the issue only gained momentum beyond Australia, New Zealand, Canada and the UK when the international federation of education trade unions, Education International, published strong critiques in 1998 and 1999. Since then a deluge of academic, NGO, industry, OECD and WTO analyses, critiques and counter-arguments have catapulted education services into the forefront of the international debate on the GATS and intensified sensitivity across every continent.

However, the GATS story does not end with the relative inertia on Education Services. As the earlier discussion and the US list of 'trade barriers' shows, many

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<sup>94</sup> Permanent Mission of the Republic of Bolivia, Geneva to Director, Services Division, WTO, 17 March 2006

<sup>95</sup> 'South Africa Shuns GATS', Business Day, 7 October 2003

<sup>96</sup> Olive Sørensen (2005) 'The High Profile of Trade in Education Services', 40 *International Higher Education* Summer 2005  
[http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/Number40/p6\\_Sorensen.htm](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/Number40/p6_Sorensen.htm) (accessed 12 May 2006)

more services are both integral and peripheral services to the global industry, including Computer and Related Services,<sup>97</sup> Research and Development Services,<sup>98</sup> Rental/Leasing Services without Operators,<sup>99</sup> Other Business Services,<sup>100</sup> Communications Services,<sup>101</sup> Audio-visual Services,<sup>102</sup> Distribution Services,<sup>103</sup> Financial Services,<sup>104</sup> Health Related and Social Services,<sup>105</sup> and Recreational, Cultural and Sporting Services.<sup>106</sup>

Indeed, the primary motivator for US insistence on the inclusion of services in the Uruguay round of trade negotiations. According to the lead US services negotiator, the US wanted to secure investment rights and protections against discrimination and to pre-empt the introduction of burdensome regulation in financial services, data transfer and telecommunications on behalf of firms like AIG, American Express and AT&T. The Annex and Understanding on Commitments in Financial Services and the Annexes on Financial Services and Basic Telecommunications added sector-specific rules to support the finance-information technology industries.

Commitments in these infrastructure services hold the key to e-education. Indeed, the US proposal to reclassify telecommunications services to include content, not just carriage, could shift commitments on education (and audio-visual, telemedicine and other e-services) into the category of telecommunications. While few WTO Member seem inclined to adopt this definition, the US has pressed it on governments seeking to join the WTO and in its bilateral agreements. That, in itself, would cement US control over the information telecommunications infrastructure for decades to come.

## Conclusion

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<sup>97</sup> Including data processing (843), Data base (844), other (845+849)

<sup>98</sup> R&D services on natural sciences (851), R&D services on social sciences and humanities (852), Interdisciplinary R&D services (853)

<sup>99</sup> Related to other machinery and equipment (83106-83109); Other (832)

<sup>100</sup> Advertising (871), market research (864), management consulting and related (865-6), placement and supply of personnel (872), related science and technical consulting (8675), printing/publishing (842), convention (87909), other (8790)

<sup>101</sup> Includes e-mail, on-line information and data base retrieval (7523), on-line information and data base processing (843), other.

<sup>102</sup> Video tape production and distribution (9612), radio and television services (9613) and transmission (7524), sound recording, other

<sup>103</sup> Commission agents (621), wholesale (622), retail (631+632+), franchising (8929), other

<sup>104</sup> Lending of all types (8113), guarantees and commitments (81119), asset management (8119+), advisory or other auxiliary services (8131), other

<sup>105</sup> Social Services (933)

<sup>106</sup> News Agency Services (962), Libraries, Archives, Museums and Other Cultural Services (963), Sporting and Other Recreational Services (964)

The impact on universities of GATS commitments in Education Services is potentially severe, but the current actual risk is limited, partly due to successful campaigns. Focusing simply on trade in education services in the WTO obscures two much deeper threats.

The first threat involves a systemic kind of 'regulatory reterritorialisation'. Schugurensky and Davidson-Harden describe the GATS 'as a neo-colonial instrument which has the potential to continue the cycles of imperialism which have subdued Latin American countries' development since the time of colonisation'.<sup>107</sup> A combination of internal neoliberalism, structural adjustment programmes and GATS commitments would position those countries to be governed by the GATS regime if a future government decided to abandon the neoliberal agenda.

They also insist that the threat is systemic. In the case of Latin American universities they project a 'policy triangulation' from the GATS, the proposed negative list and investor-initiated disputes provisions of the Free Trade Area of the Americas agreement and the neoliberal conditionalities of the IMF and World Bank. That kind impact is not confined to the Global South. The combination of domestic liberalisation and trade in services commits in the GATS and other bilateral and regional treaties constrain the policy and regulatory options of all governments and all their universities. Only the most powerful and the very weak parties can afford to breach the rules.

The second threat is the potential for trade in services agreements to thicken and entrench the multi-faceted global education and research industries and their associated services infrastructure. The rapid consolidation of this paradigm has already created a complexity of markets that is impossible to untangle. Nor can modern public universities quarantine themselves. They are both directly integrated into the global education market place and indirectly shaped by the pressures it generates. For the universities to retreat would require governments to go beyond piecemeal adjustment to realign education policy with a different economic paradigm.

This makes it difficult to see how governments might restore a balance between market education, social cohesion and political legitimation in the way Polanyi described in the 1930s. At the same time, however, hegemony cannot be imposed. The hybrid

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<sup>107</sup> Schugurensky and Davidson-Harden (2003, 333

modern/neoliberal university is a site of contradiction that is symbolic of the deeper instabilities created by an increasingly unfettered form of global capitalism.