

Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts

By

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DECLARATION

I, Conrad Cornelius Andreas Hagenmeier, declare that this PhD thesis ‘Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts’, which I submit for examination for the degree of Doctor of Philosophy at the University of Cape Town, is my original work (except where references indicate otherwise). It has not been submitted for in whole or part for any other degree or examination at any other University. All contributions by other people and quotations have been referenced in accordance with the University of Cape Town Faculty of Law’s Research, Writing, Style and Referencing Guide.

Signed by candidate

12 March 2021

DEDICATION

I dedicate this work to my family and the memory of my late parents. My father, Rolf Andreas Hagenmeier and my mother, Maria Irene Hagenmeier, instilled the love of knowledge in me and inspired me never to accept things for what they appear to be. My wife Lizelle and our children Olga and Vincent provided unwavering support, which allowed me to focus on the research for this thesis. I deeply appreciate their sacrifice of allowing me to devote my time and energy to complete this work.

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ABSTRACT

This thesis investigates how an appropriate theoretical framework for equal partnerships between universities in divergent contexts could be formulated, based on the principle of substantive equality. Literature has to date not addressed whether equality should be a principle underlying higher education partnerships, and the concept of equality in higher education partnerships has not yet been defined. This thesis explores present practices and conceptualisations of equality, specifically in partnerships between higher education institutions of divergent strengths, through a literature study, a survey of university stakeholders responsible for the management of bilateral international university partnerships, four mini-case studies and a doctrinal review of the South African Constitutional Court's equality jurisprudence. An interpretivist paradigm is applied; Fredman's four-dimensional understanding of substantive equality serves as its theoretical framework. The internet-based survey tool 'SurveyMonkey' was used to collect data for the survey. Data evaluation was undertaken using the analytical tools embedded in SurveyMonkey, the Statistical Programme for the Social Sciences (SPSS), and qualitative data was thematically analysed. The mini-case studies applied present practices and conceptualisations of equality in higher education partnerships, specifically in those between higher education institutions of divergent strengths, as the primary unit of reference. The substantive equality jurisprudence of the South African Constitutional Court was evaluated using Fredman's four-dimensional model of substantive equality. The most notable insight from the empirical research is that there is no uniform understanding of equality in higher education partnerships. Based on the empirical and doctrinal research, a theoretical framework was formulated. For partnerships to be considered equal, certain criteria from an open-ended list should be met, which include a value-foundation in mutuality, transparency and accountability, trust, equity and fairness, academic freedom, promotion of education, research and development, and *ubuntu*. Partners should make contributions that are equally meaningful, considering their context. They should be able to achieve their priorities to an equal extent through the partnership. The partners should recognise and affirm their equal worth, as well as the equal worth of all those who participate in partnership activities in all spheres of the collaboration. Open and transparent communication should be practised, and partnership decision-making processes should equally weigh all partners' voices and ensure that minority views are considered. The partnership as a whole should affirm the diversity of partner universities.

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LIST OF ABBREVIATIONS AND ACRONYMS

AAU	African Association of Universities
AIEA	Association of International Education Administrators
BRICS	Brazil, Russia, India, China, and South Africa
CAPES	Coordenação de Aperfeiçoamento de Pessoal de Nível Superior
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
COIL	Collaborative Online International Learning
CSECR	United Nations Committee on Social, Economic and Cultural Rights
EAIE	European Association for International Education
DAAD	Deutscher Akademischer Austauschdienst
DeIPHE	Development Partnerships in Higher Education
DFID	Department for International Development (United Kingdom)
FAUBAI	Brazilian Association for International Education
IAU	International Association of Universities
IIE	Institute of International Education
IEASA	International Education Association of South Africa
IALS	International Association of Law Schools

INU	International Network of Universities (INU)
KEMRI	Kenyan Medical Research Institute
NIEA	Network of International Education Associations
OECD	Organisation for Economic Co-Operation and Development
SANORD	South African Nordic Centre
SARUA	Southern African Regional Universities Association
SIO	Senior international officer
SPSS	Statistical Programme for the Social Sciences
THE	Times Higher Education World University Rankings 2015–2016
UN	United Nations
US	United States
USA	United States of America
UNESCO	United Nations Educational, Scientific and Cultural Organization
URAP	University Ranking by Academic Performance
WHED	Worldwide Database of Higher Education Institutions, Systems and Credentials

CHAPTER ONE: INTRODUCTION

I. Introduction

This thesis develops a theoretical framework for equal bilateral international higher education partnerships based on substantive equality. The study first tests whether higher education partnerships, as presently construed, are genuinely equal. After that, the research proceeds to develop a theoretically sound international higher education partnership model that promotes equality.

One of the prevailing trends in higher education is increasing competition between universities, with increasing stratification and focus on university rankings.¹ Inequality between higher education systems is increasing² in a global environment characterised by inequalities within and between countries and world regions.³ Higher education should contribute to overcoming inequalities, rather than being instrumental in their perpetuation. At present, the conditions for equality of opportunity in higher education may be weakening,⁴ and it is doubtful whether higher education is contributing sufficiently to overcoming global inequality.

The process of internationalisation is critical for all universities, irrespective of their size, shape and location. Globally, higher education institutions are striving to infuse international and intercultural dimensions into their core business. Underlying the drive to internationalise is the need to produce internationally employable graduates equipped for global citizenship in its fullest sense. The process connects universities to the global world of knowledge and allows

1 Hans de Wit & Philip G Altbach 'Internationalization in higher education: Global trends and recommendations for its future' (2020) *Policy Reviews in Higher Education* 1 at 6.

² Philip G Altbach, Liz Reisberg & Laura E Rumbley *Trends in Global Higher Education: Tracking an Academic Revolution* (2009) at 9, available at <https://unesdoc.unesco.org/ark:/48223/pf0000183219?posInSet=2&queryId=22067a3c-e8b5-4ce4-9887-d824ce5f152e> (accessed 12 January 2021).

³ United Nations Economic and Social Council 'World Economic and Social Survey 2014: Reducing Inequality for Sustainable Development' (2014) *United Nations Document E/2014/50* at 4.

⁴ Simon Marginson 'Higher education and growing inequality' (2016) *Academic Matters* 7.

them to address significant contemporary challenges, such as global health, food security, international peace and security, and climate change. It contributes to transformation, which is essential to keep universities relevant and to position them to develop knowledge communities and respond to global and local quandaries. Collaboration continues to be a critical internationalisation feature, albeit in a more competitive context than before.⁵

International higher education partnerships are a central element of internationalisation. In the words of Sutton et al, institutional partnerships have evolved to become ‘a defining characteristic of academic internationalisation’.⁶ Universities need to forge collaborations transcending developed and developing contexts to be fit for purpose. Partnerships with diverse institutions of higher learning located in other countries are critical for gaining access to knowledge resources, research contexts and exposure to cultures and customs. However, while the benefits of partnerships are evident, universities must avoid the risks associated with them, such as their ability to ‘entrench and perpetuate asymmetries of inequality in higher education’.⁷

II. Rationale

Although the significance of higher education partnerships has become generally recognised, and they are considered a ‘defining feature’ of the process of internationalisation,⁸ their dogmatic foundations have not been sufficiently scrutinised and understood. Scholars and practitioners proclaimed in the 2014 ‘Nelson Mandela Bay Declaration on the Future of Internationalisation’ that ‘the future agenda for internationalisation should in particular

⁵ Hans de Wit ‘Globalisation and internationalisation of higher education’ (2011) 8 *Revista de Universidad y Sociedad del Conocimiento* 241 at 242.

⁶ Susan Buck Sutton et al ‘Collaborating on the future: Strategic partnerships and linkages’ in Darla K Deardorff, Hans de Wit, John D Heyl & Tony Adams (eds) *The SAGE Handbook of International Higher Education* (2012) 161.

⁷ Felix Maringe & Hans de Wit ‘Global higher education partnerships: Equity and epistemic concerns with distribution and flows of intellectual capital’ in James E Côté & Andy Furlong (eds) *Routledge Handbook of the Sociology of Higher Education* (2016) 417.

⁸ Hans de Wit ‘Partnerships for the future: Trends, challenges and opportunities’ in Nico Jooste, Hans de Wit & Savo Heleta (eds) *Higher Education Partnerships for the Future* (2015) 95.

concentrate on ... areas of development', which include 'gaining commitment on a global basis to equal and ethical higher education partnerships'.⁹ The associations which endorsed the document undertook that, as a high priority action, '[b]y September 2014, a set of International Partnership guidelines shall be developed and proposed for adoption by organisations affiliated with the NIEA [Network of International Education Associations]¹⁰ to ensure equal and ethical practices in international education'.¹¹

Together with equality, ethical principles, reciprocity, mutual benefit and informed consent lie at the heart of the present theoretical framework for international partnerships. Although equality is frequently cited as a foundational principle underlying international higher education partnerships, its meaning still needs to be clearly defined.¹² The researcher, in his previous position as Director of International Relations at a rural-based university in South Africa,¹³ and now in his role as Director of the Office for International Affairs at a research-led multi-campus university in the same country,¹⁴ often faces and manages challenges arising out of inequalities in partnerships and different understandings of equality, at both the strategic and operational levels.

⁹ Global Dialogue, hosted by the International Education Association of South Africa 'Nelson Mandela Bay Global Dialogue Declaration on the Future of Internationalisation of Higher Education' (2014) 2, available at <https://www.ieaa.org.au/documents/item/208> (accessed 4 January 2021). The researcher was privileged to participate in the Global Dialogue at which the declaration was adopted. See also the discussion of the document by the researcher in Cornelius Hagenmeier 'Ensuring equality in higher education partnerships involving unequal universities in divergent contexts' in Nico Jooste, Hans de Wit & Savo Heleta (eds) *Higher Education Partnerships for the Future* (2015) 41.

¹⁰ The Network of International Education Associations (NIEA) is a non-governmental, non-profit association of national and regional international education organisations whose purpose is 'to advance international higher education to improve the quality of higher education and research'. NIEA 'Statement on the Importance of International Higher Education and Research' (2020), available at <http://ieasa.studysa.org/wp-content/uploads/2020/07/NIEA-Statement-on-the-importance-of-international-higher-education-and-research.24-July-2020.pdf> (accessed 27 February 2021).

¹¹ Ibid at 3 (High Priority Action 6).

¹² Hagenmeier op cit note 9 at 41. See chapter 2 section IV below.

¹³ From 2010 to 2017 the researcher served as Director of International Relations at the University of Venda, South Africa.

¹⁴ Since 2017, the researcher has served as Director of the Office for International Affairs at the University of the Free State, South Africa.

Traditionally, equality is often understood as formal equality.¹⁵ In the context of higher education partnerships, formal equality would mean ‘that all partners are required to make the same contributions, be that in money or in kind in order to achieve the partnership’s common purpose’.¹⁶ This may be challenging to achieve between partners in different contexts and with different strengths. Higher education institutions vary in terms of their student numbers, academic structures, research output, standing and economic position. A formal understanding of equality in collaborations between universities with differing economic strengths may result in the stronger partner exerting more significant influence on the partnership decision-making processes and being dominant over the other. A lack of formal equality is a risk for the success and sustainability of partnerships and ‘may be used by universities to secure a competitive advantage’¹⁷ *vis-à-vis* their partners. This thesis explores what a suitable conception of equality in higher education partnerships might be and whether the principle of ‘substantive equality’ may assist in realising equal partnerships between universities, and particularly between higher education institutions in different contexts that differ in size and economic strength.

III. Objectives

The overall objective of the research is to formulate a theoretically sound conceptualisation of equality in higher education partnerships where partners are situated in divergent contexts characterised by different economic, academic and structural strengths, and to develop appropriate concepts and strategies to achieve equality in higher education partnerships. The research has three specific objectives:

¹⁵ Catherine Albertyn & Beth Goldblatt ‘Equality’ in Stu Woolman & Michael Bishop (eds) *Constitutional Law of South Africa* 2 ed (2013) ch 35.

¹⁶ Hagenmeier *op cit* note 9 at 41.

¹⁷ *Ibid* at 43.

First, it seeks to gain an understanding of present practices and conceptualisations of equality in higher education partnerships; second, it examines whether equality is a reality in higher education partnerships involving partners of different strengths; and third, it develops a theoretical framework for equality in higher education partnerships based on the concept of substantive equality. The thesis attempts to raise awareness of inequalities in higher education partnerships and the potential for exploiting proportionally weaker universities. Through the proposed framework for equality in the higher education partnership context, ‘weaker’ universities should be empowered to advance their legitimate interests in higher education partnerships.

IV. Research question

The main research question is:

How can an appropriate theoretical framework for equal partnerships be formulated, based on the principle of substantive equality?

The following sub-question is explored:

What are the present practices and conceptualisations of equality in higher education partnerships, specifically in those partnerships between higher education institutions of different strengths?

V. Philosophical underpinnings

The study’s philosophical underpinnings are partially based on an acceptance of natural law, which is understood as moral standards of behaviour objectively derived from ‘the nature of human beings and the nature of the world’.¹⁸ The author accepts that many aspects of reality

¹⁸ Kenneth E Himma *Natural Law Internet Encyclopaedia of Philosophy* (2001), available at <https://iep.utm.edu/natlaw/> (accessed 3 January 2021).

are objective and eternal, but considers human epistemological capacity too limited to comprehend this reality entirely. Phenomena which are essentially human-created, such as international higher education partnerships, are value-laden, and there is no absolute objective standard applicable to them; they are best understood as social constructs developed by humans. However, it would be challenging to find orientation in social reality without being informed by normative standards. Knowledge relating to international higher education partnerships is considered subjective and fluid, depending on the observer's point of view, while it is nevertheless vital to develop applicable normative standards. International higher education partnerships are considered to be context-specific and best encapsulated in narratives. However, normative standards, conceptualisations and frameworks are valuable for their practice and development.

Consequently, an interpretivist paradigm is applied to the empirical work which was conducted for this thesis. Interpretivism 'denotes those approaches to studying social life that accord a central place to "*Verstehen*" as a method of the human sciences, that assume the meaning of human action is inherent in that action, and that the task of the inquirer is to unearth meaning'.¹⁹ The empirical research for this study was consistently conducted based on the interpretivist paradigm, which informed the phrasing of the research questions and the thesis structure. This philosophical choice permeates the entire thesis, irrespective of the method chosen for a particular aspect of the research.

¹⁹ Thomas A Schwandt 'Interpretivism' in Thomas A Schwandt *The SAGE Dictionary of Qualitative Inquiry* 3 ed (2007) 161.

VI. Research design and methodology

The study deploys mixed methods. The use of two or more research methods for a single research project constitutes mixed methods research.²⁰ In recent years, mixed methods have become popular, and a rich discourse has developed on their nature, philosophical underpinnings and implementation. Nevertheless, it is still a developing field, with at times inconsistent or even contradictory conceptualisations.²¹ The principal common denominator of mixed methods studies is that they integrate qualitative and quantitative research methods.²² There are diverse views on the philosophical underpinnings of mixed methods research, and on the correlation between research paradigms and methods.²³

The mixed research methodology was intentionally chosen to gain a deep understanding of the complex challenge of equality in higher education partnerships, on which, to date, only limited research has been conducted. It would be impossible to decipher the complexity of the phenomenon under scrutiny using only a single research method.²⁴ This study agrees with the view that simplistic approaches carry the inherent risk of producing ‘knowledge devoid of critical reflection and contextual considerations’.²⁵ It was necessary to combine doctrinal legal research with empirical methods of enquiry to fully appraise both the normative content of the

²⁰ R Burke Johnson, Anthony J Onwuegbuzie & Lisa A Turner ‘Toward a definition of mixed methods research’ (2007) 1 *Journal of Mixed Methods Research* 112 at 119–121; Katrina McChesney & Jill Aldridge ‘Weaving an interpretivist stance throughout mixed methods research’ (2019) 42 *Journal of Research and Method in Education* 225 at 226.

²¹ Abbas Tashakkori & John W Creswell ‘The new era of mixed methods’ (2007) 1 *Journal of Mixed Methods Research* 1.

²² Ibid.

²³ McChesney & Aldridge op cit note 20; David L Morgan ‘Paradigms lost and pragmatism regained: Methodological implications of combining qualitative and quantitative methods’ (2007) 1 *Journal of Mixed Methods Research* 489.

²⁴ See, for example, Omar A Ponce & Nellie Pagán-Maldonado ‘Mixed methods research in education: Capturing the complexity of the profession’ (2015) 1 *International Journal of Educational Excellence* 113, who argue that ‘[m]ixed methods studies are based on the belief that there are existing problems whose complexity cannot be fully researched when the combination or integration of quantitative and qualitative approaches are not undertaken as components of the study’ (at 115).

²⁵ Mirka Koro-Ljungberg & Lisa A Mazzei ‘Problematizing methodological simplicity in qualitative research: Editors’ introduction’ (2012) 18 *Qualitative Inquiry* 728.

concept ‘equality’ and its perception in the higher education environment. The methodology chosen for the thesis allows for the cross-fertilisation of legal and social science methods. The methodology is inspired by the Law in Context approach, which contextualises the study of law ‘by examining issues “beyond the exposition of legal doctrine, to consider critically the law in its social and economic context”’,²⁶ in that it utilises insight won through legal research to appraise a concept used in the higher education internationalisation context.

Mixed methods are not necessarily associated with a specific research paradigm.²⁷ McChesney and Aldridge²⁸ describe five ways in which paradigms and methods can be aligned in mixed methods research. First, a ‘binary stance’ can be adopted, positioning qualitative and quantitative research within particular paradigms. Qualitative methods would be conjoined with interpretivist or subjectivist paradigms, whereas quantitative methods would be connected with objectivist or positivist paradigms. Second, an a-paradigmatic stand can be embraced, meaning that researchers do not use paradigms for the enquiry process. Third, a dual-paradigm or dialectical stance can be followed, meaning that two or more paradigms are integrated into a study, together with several methodologies or methods. Fourth, a pragmatist stance can be taken, which considers paradigms to be logically independent and allows for their mixing and matching. A fifth option is the holistic or single paradigm stance, which advocates that mixed method studies should be undertaken in concordance with a single paradigm. The researcher decided on the last option because it is the only one which allowed him to follow his philosophical conviction consistently. Research paradigms are rooted in philosophical

²⁶ See Evance Kalula *Labour Legislation in a Post-Colonial State: Attempts to Incorporate Trade Unions in Zambia, 1971–86* (PhD thesis, University of Warwick School of Law, 1988) with reference to the introduction to Weidenfeld and Nicolson’s Law in Context approach.

²⁷ Manfred M Bergman ‘On concepts and paradigms in mixed methods research’ (2019) 4 *Journal of Mixed Methods Research* 171.

²⁸ McChesney & Aldridge op cit note 23 at 227.

paradigms, and it would not have been possible for the researcher to conduct the research in any other way than that which is rooted in his philosophical conviction.

A conscious decision was taken to determine the research methods used in the study according to their suitability in assisting the researcher in gaining a deep understanding of the phenomenon under scrutiny. The interpretivist paradigm, which the researcher adopted for this study, informed the choice of methods. Following his philosophical convictions, the researcher chose methods which allowed him to gain a profound comprehension of the concept of equality. Where empirical methods were deployed, the research was structured to avoid influencing participants by preconceived conceptions of the phenomenon under examination. Instead, they were allowed to articulate their understandings in the different research settings.

Data has been collected using a multiplicity of methods, suitable for understanding the phenomenon under scrutiny, that is, equality in higher education partnerships. Literature study, analyses of select case law and qualitative data collection are used as the principal means of data collection. Where appropriate, the quantitative method is utilised to understand the broader perceptions of equality of relevant stakeholders. In addition, the doctrinal legal research method is applied to construe the concept of substantive equality normatively.

The research is presented in a monograph. Subsequent to this introductory chapter, chapter 2 reviews relevant literature. It analyses prevailing theoretical conceptions for international higher education partnerships and establishes the present state of the discourse. The chapter infuses partnership conceptions from diverse fields to provide a deeper understanding of the concept of higher education partnerships. Different theoretical models of equality are dissected, with a view to extrapolating a theoretical model applicable to higher education partnerships. The chapter closes by introducing the study's theoretical framework, which is the four-

dimensional conception of equality proposed by Fredman.²⁹ Chapter 3 presents a survey of senior international officers on their perceptions of equality in partnerships. Chapter 4 presents an in-depth case study of four higher education partnerships, which focuses on practices and perceptions of equality. Chapter 5 analyses the South African Constitutional Court's jurisprudence on substantive equality, using the framework of Fredman's four-dimensional understanding of equality.³⁰ Chapter 6 develops a theoretical framework for equality in higher education partnerships based on a four-dimensional understanding of substantive equality. The chapter draws on the findings of the two empirical studies, the analysis of select theoretical internationalisation writings presented in the literature review, and South African equality jurisprudence to develop a suitable theoretical framework which could form the foundation for a proper understanding of equality. The final chapter provides reflections on the study, and formulates further research questions. The methods specific to the two empirical studies that were conducted are explained in the relevant chapters.

VII. Ethical considerations

To avoid harm to research participants, research must be conducted ethically. To ensure this, the University of Cape Town's Code for Research Involving Human Participants³¹ was followed strictly. All relevant policies were adhered to, and all protocols followed. Ethical approval for the research was received from the University of Cape Town under ref. no. L0040/2016 dated 12 December 2016,³² and a renewal was granted on 23 January 2019.³³ A request to amend the sampling method relating to the first empirical study to convenience

²⁹ Sandra Fredman *Discrimination Law* (2011).

³⁰ Ibid.

³¹ University of Cape Town (2012) 'Code for Research Involving Human Participants' available at https://www.uct.ac.za/sites/default/files/image_tool/images/328/about/policies/Human_Research_Ethics_Code_2012.pdf (accessed 4 February 2021).

³² Attached as 'Addendum I'.

³³ Attached as 'Addendum II'.

sampling and to shorten the relevant questionnaire, combined with a further renewal request, was approved on 6 December 2019.³⁴ Ethical considerations specific to the respective empirical studies are discussed in the relevant chapters.

VIII. Limitations

The study is limited to developing a new theoretical framework for equality in higher education partnerships; its scope does not allow for testing of the results. Following the study's completion, it will be necessary to test this framework in additional studies scientifically. The survey of senior international officers is limited because random or purposive sampling was not possible due to low participation in the initial survey for the first empirical study; recourse had to be made to convenience sampling. While this amendment to the research protocol allowed the researcher to achieve the primary purpose of the first empirical study, which was to obtain basic insights into the prevailing understanding of equality in higher education partnerships among senior international officers required for developing a proposed definition of equality in higher education partnerships, it limits the generalisability of the findings.

The results of the survey of senior international officers and the four case studies, which are predominantly based on interviews, carry the risk that the respondents provided answers that they considered socially desirable, which will be carefully evaluated in the data analysis. Another limitation is that the mini case studies, as a result of resource limitations, involve partnerships from only two world regions, namely Europe and Southern Africa, limiting the global applicability of the findings.

³⁴ Attached as 'Addendum III'.

CHAPTER TWO: LITERATURE REVIEW

I. Introduction

This chapter provides an overview and analysis of three literature streams that are of central relevance to the research question. The chapter first considers the theoretical framework for the internationalisation of higher education. Second, it analyses higher education partnerships in general. Third, it unpacks literature engaging with the principle of equality, and works explicitly situating the principle in the higher education partnership context. The broad literature review is necessary to position the research question in the internationalisation and equality discourse. Different theoretical models of equality are dissected, with a view to extrapolating a theoretical model which may be applicable to higher education partnerships. Pursuant to the thesis's interdisciplinary character and the limited literature engaging with equality in higher education partnerships in the narrow sense, sources from a cross-section of academic fields are considered, focusing on internationalisation and law (specifically human rights law). Where appropriate, reference is made to relevant judicial decisions and other legal documents.

II. Internationalisation of higher education

(a) History

Sophists, Greek travelling teachers, and Sish, wandering Chinese scholars, have been cited as the first examples of academic mobility.³⁵ Altbach and De Wit observe that the internationalism of higher education can be traced 'back at least to Nalanda University in India in the 6th century AD, which attracted students and staff from all over the Buddhist world'.³⁶ Other early examples of international education include the medieval European university which emerged

³⁵ Asma Moshin & Khalid Zaman 'Internationalisation of universities: Emerging trends, challenges and opportunities' (2014) 3 *Journal of Economic Info* 1 at 4.

³⁶ Philip G Altbach & Hans de Wit 'Internationalisation and global tensions: Lessons from history' (2015) 19 *Journal of Studies in International Education* 4 at 5.

in the twelfth century and was characterised by ‘its designation as a *studium generale*, by the presence of a higher faculty, and by Papal charter licensing the master to teach in any university’.³⁷ However, universities could not be characterised as ‘international’ in the modern sense of the word because modern nation-states did not yet exist.³⁸ A common European space characterised this period, ‘defined by a common religion, a shared language (Latin), and a common set of academic practices’.³⁹ In the eighteenth and nineteenth centuries, at least in European higher education, a national orientation prevailed,⁴⁰ and universities emerged which served national needs and demands.⁴¹ European higher education was exported to European colonies⁴² during the course of colonialism and imperialism. De Wit and Knight describe this development, which is of great significance to understanding the power dynamics in modern higher education collaboration, as follows:

The most important international element of higher education in this period was probably the export of systems of higher education. In particular, it took the form of export from the colonial powers to their colonies, and later to the newly independent states. Higher education in Latin America was, and still is in no small extent, modelled on higher education in the Iberian Peninsula. Higher education in India and other Asian, African, Caribbean and Northern American universities belonging to the British Empire, was modelled on British higher education. In the same way, the Asian, African, Caribbean and Northern American universities in former French colonies were constructed according to the pattern of French higher education.⁴³

³⁷ Clyde P Patton ‘The origins and diffusion of the European universities’ (1969) *Yearbook of the Association of Pacific Coast Geographers* 7.

³⁸ Hans de Wit & Gilbert W Merx ‘The history of internationalization of higher education’ in Darla K Deardorff, Hans de Wit, John Heyl & Tony Adams (eds) *The SAGE Handbook of International Higher Education* (2012) 58 at 59.

³⁹ De Wit & Altbach op cit note 1.

⁴⁰ Hans de Wit et al *Internationalisation of Higher Education: Study* (2015), published by the European Parliament Directorate-General for Internal Policies, Policy Department B: Structural and Cohesion Policies, Culture and Education Document IP/B/CULT/IC/2014-002.

⁴¹ De Wit & Altbach op cit note 1.

⁴² Jane Knight & Hans de Wit ‘Strategies for internationalisation of higher education: Historical and conceptual perspectives’ in Hans de Wit (ed) *Strategies for Internationalisation of Higher Education: A Comparative Study of Australia, Canada, Europe and the United States of America* (1995) at 7.

⁴³ Ibid.

In the early twentieth century, renewed attention to academic collaboration emerged.⁴⁴ International co-operation and exchange in higher education became prominent in the interwar period from 1919 to 1939. Many important actors in internationalisation, such as the British Council (founded in 1934), the German ‘Deutscher Akademischer Austauschdienst’ (DAAD, founded in 1925) and the United States Institute of International Education (IIE, founded in 1919), have their origins in this epoch. Altbach and De Wit observe that in this era ‘a strong focus on stimulating peace and mutual understanding under the umbrella of the League of Nations’⁴⁵ was dominant and consider the creation of international education organisations as examples of political initiatives aimed at achieving this.⁴⁶

After the Second World War, ‘this trend received further impetus, ... although mainly in the United States through the Fulbright Programme, given that Europe was still recovering from the devastation of two wars and concentrating its efforts on reconstruction’.⁴⁷ During the so-called ‘cold war’, internationalisation, which was at the time still generally known as ‘international education’, was often motivated by national security and foreign policy.⁴⁸ Internationalisation in the developed world concentrated on advancing mobility and research collaboration, whereas in relations with the developing world, the emphasis was on technical collaboration and assisting students from disadvantaged education systems.⁴⁹ De Wit et al remark that ‘it is in this period that internationalisation emerged as a process and strategy’.⁵⁰ The contemporary understanding of internationalisation evolved in the 1990s, with a shift of emphasis towards achieving internationalisation outcomes at the home university and the

⁴⁴ De Wit & Merckx op cit note 38.

⁴⁵ Altbach & De Wit op cit note 36 at 5.

⁴⁶ Ibid.

⁴⁷ De Wit et al op cit note 40 at 42.

⁴⁸ De Wit & Merckx op cit note 38.

⁴⁹ Viv Caruana ‘Researching the transnational higher education policy landscape: Exploring network power and dissensus in a globalizing system’ (2016) 14 *London Review of Education* 56 at 56.

⁵⁰ De Wit et al op cit note 40 at 43.

proliferation of the contemporary understanding and nomenclature of internationalisation. The notion of internationalisation at home developed, which had in the early stages been understood as ‘any internationally related activity with the exception of outbound student and staff mobility’.⁵¹

Bilateral and multilateral university partnerships and networks have been a feature of international education for decades, but they have gained real prominence in the new millennium. In 1992, Klasek noted that ‘such agreements were increasing in number’ and focused mostly on student and faculty exchange, and he referred to the prominence of ‘technical collaboration’ projects.⁵² Historically, equality and equity concerns have been plaguing higher education partnerships. Wiley and Root observed in 2002 that—

during the Cold War era, many linkage agreements reflected the dominance of one Western or Eastern Bloc partner. Third world institutions accepted that arrangement because of the resources proffered and the financial, political, and intellectual power of the foreign partner.⁵³

While student and staff mobility retained their prominence over time,⁵⁴ a focus on transnational education has emerged, which has seen the development of branch campuses and cross-border delivery of education, including cross-border distance education. Another important contemporary development is the increasing focus on digital learning and virtual collaboration which provide manifold new internationalisation opportunities.⁵⁵ Overall, the focus of internationalisation has broadened considerably over the decades. Initially, mobility of students (for degrees or credits) and staff (as visiting scholars or for full employment) was at

⁵¹ Paul Crowther et al ‘Internationalisation at Home: A Position Paper’ (2000) Amsterdam: EAIE.

⁵² CB Klaesk ‘Inter-institutional cooperation: Guidelines and agreements’ in C B Klasek (ed) *Bridges to the Future: Strategies for Internationalizing Higher Education* (1992) 108, cited in Sutton et al op cit note 6 at 167.

⁵³ David Wiley & Christine Root ‘Educational Partnerships with Foreign Institutions for Increasing the Quality of International Education in the United States’, available at <https://docplayer.net/18741815-Educational-partnerships-with-foreign-institutions-for-increasing-the-quality-of-international-education-in-the-united-states.html> (accessed 6 January 2021) at 3.

⁵⁴ De Wit et al op cit note 40 at 182.

⁵⁵ De Wit & Altbach op cit note 1.

the core of internationalisation; in the last decades, the process has expanded to include other dimensions such as cross-border delivery of higher education, internationalisation at home and curriculum internationalisation. Internationalisation has moved from being fragmented to being more comprehensive⁵⁶ and ‘from being a marginal to [being a] mainstream activity’.⁵⁷

(b) The concept of internationalisation: Definition and categories

Internationalisation of higher education is generally distinguished from globalisation. The terms are not synonymous;⁵⁸ however, Ota observed a trend of using the term ‘globalisation’ to replace ‘internationalisation’ without influencing the meaning.⁵⁹ Globalisation has a broader scope and can be defined as ‘the economic, political, and societal forces pushing 21st century higher education toward greater international involvement’,⁶⁰ although there is a rich diversity of opinions on the relationship between the processes. Economic globalisation, which ‘refers to the increasing interdependence of world economies as a result of the growing scale of cross-border trade of commodities and services, flow of international capital and wide and rapid spread of technologies’,⁶¹ required higher education to intensify the process of internationalisation. While it is appropriate to understand universities as international by nature, in that they contribute to universal knowledge, economic globalisation requires all higher education spheres to react to this reality and intentionally integrate international dimensions into their core business. Contemporary internationalisation, particularly its more commercial dimensions – such as recruitment of international students, cross-border delivery, and higher

⁵⁶ John Hudzik *Comprehensive Internationalisation. From Concept to Action* (2012).

⁵⁷ Hans de Wit & Fiona Hunter ‘Europe’s 25 years of internationalisation: The EIEA in a changing world’ (2014) *International Higher Education* 14.

⁵⁸ Candice J Grant ‘The promise of partnerships: Perspectives from Kenya and the U.S.’ (2014) 1 *FIRE: Forum for International Research in Education* 50.

⁵⁹ Hiroshi Ota ‘Internationalisation of higher education: Global trends and Japan’s challenges (2018) 12 *Educational Studies in Japan: International Yearbook* 91.

⁶⁰ Philip G Altbach & Jane Knight ‘The internationalization of higher education: Motivations and realities’ (2007) 11 *Journal of Studies in International Education* 290 at 290.

⁶¹ Gao Shangquan ‘Economic globalization: Trends, risks and risk prevention’ *Economic & Social Affairs, CDP Background Paper* 1 (2000) 1.

education's role as an actor in the global knowledge economy – may be understood as the sector's response to and involvement in economic globalisation.

The definition of internationalisation is continuously evolving; presently, there is no universally accepted understanding of the term. Until recently, the most widely used definition was that proposed by Knight, who has conceptualised it as the 'process of integrating an international, intercultural, or global dimension into the purpose, function or delivery of post-secondary education'.⁶² However, this definition has never been universally accepted. For example, Murphy understands internationalisation as 'the dynamic process of exposing students and faculty to the ideas, methods, and people of other countries because such an experience is beneficial and essential'.⁶³

As observed above,⁶⁴ in the last decades, the focus of internationalisation has widened considerably, and the process has moved 'from being a marginal to [being a] mainstream activity'.⁶⁵ The notion of conceptualising comprehensive internationalisation, which essentially refers to 'commitment, confirmed through action, to infuse international and comparative perspectives throughout the teaching, research, and service missions of higher education',⁶⁶ affirms the role of partnerships for the internationalisation process.⁶⁷ While the idea of comprehensive internationalisation adds depth to understanding the internationalisation process, it complements rather than contradicts Knight's generally accepted understanding and will be applied accordingly.

⁶² Jane Knight 'Updating the definition of internationalisation' (2003) 33 *International Higher Education* 2.

⁶³ Moria Murphy 'Experiences in the internationalisation of education: Strategies to promote equality of opportunity at Monterrey Tech' (2007) 53 *Higher Education* 167 at 170.

⁶⁴ See chapter 2 section II(a) at 12.

⁶⁵ De Wit & Hunter op cit note 57 at 5.

⁶⁶ Hudzik op cit note 56 at 10.

⁶⁷ Hudzik op cit note 56 at 32.

De Wit critically comments that ‘comprehensive internationalisation’ would be ‘a tautology: internationalisation is not internationalisation if it is not comprehensive than it is old fashioned international education’.⁶⁸ Indeed, the concept of comprehensive internationalisation was advanced in the discourse on internationalisation much earlier. For example, Jooste unpacked the characteristics of a comprehensively internationalised South African university.⁶⁹ As early as 2006, he used the words ‘comprehensive internationalisation’ to describe a university which has succeeded in developing a comprehensive internationalisation strategy, is internationalising its curriculum, is engaged in international and interdisciplinary knowledge networks, and links international and local communities, particularly in developmental matters.⁷⁰

In 2015, in a study commissioned by the European Union, De Wit et al offered an extension of Knight’s definition of internationalisation, and suggested that it should be understood as ‘the intentional process of integrating an international, intercultural or global dimension into the purpose, functions and delivery of post-secondary education, in order to enhance the quality of education and research for all students and staff and to make a meaningful contribution to society’.⁷¹ This reconceptualisation emphasises that the process needs to be intentional, and introduces the notion that it has to serve the dual purpose of ‘enhancing the quality of education and research and contributing to society’.⁷²

The new definition reflects that internationalisation is a means to achieve other ends, for example, quality of higher education and graduate outcomes such as global and intercultural

⁶⁸ Hans de Wit ‘Internationalisation of higher education: An introduction on the why, how and what’ in Hans de Wit (ed) *An Introduction to Higher Education Internationalisation* (2013) 13–46.

⁶⁹ Nico Jooste ‘Characteristics of an internationalised university in South Africa’ in Nico Jooste & M Neale-Shutte (eds) *Internationalizing Higher Education* (2007) 151.

⁷⁰ Ibid at 159.

⁷¹ De Wit et al op cit note 40 at 29.

⁷² Altbach & De Wit op cit note 1 at 4.

competency, and not an end in itself.⁷³ The definition emphasises ‘the increased awareness that internationalisation has to become more inclusive and less elitist’.⁷⁴ The new definition adds depth to the understanding of the internationalisation process; similar to the notion of comprehensive internationalisation, it complements rather than contradicts Knight’s understanding and will be applied accordingly. The focus on intentionality and the clarification ‘that internationalisation is not a goal in itself, but a means to enhance quality’ and benefit society provide normative direction.⁷⁵

(c) Decolonisation of internationalisation

The reflection on the history of internationalisation⁷⁶ alluded to the colonial and imperial past of higher education internationalisation. Emerging higher education systems, including those in Africa, were modelled on those of the respective colonising countries.⁷⁷ While overt colonialism, which limited the sovereignty of nations, was to a large extent overcome when colonised countries attained independence, this is not true of coloniality and its manifestations in higher education. This concept ‘refers to long-standing patterns of power that emerged as a result of colonialism, but that define culture, labor, intersubjective relations, and knowledge production well beyond the strict limits of colonial administrations’.⁷⁸ Majee and Ress consider a decoloniality frame to be ‘useful for challenging the longstanding claims of Euro-American internationalisation to be universal’,⁷⁹ but also acknowledge its limitations.

⁷³ De Wit et al op cit note 34 at 29.

⁷⁴ Ibid.

⁷⁵ Hans de Wit ‘Internationalisation of higher education: The need for a more ethical and qualitative approach’ (2020) 10 *Journal of International Students* i–iv.

⁷⁶ See this chapter section II(a).

⁷⁷ Cornelius Hagenmeier, Annette Lansink & George Novisi K Vukor-Quarshie ‘Internationalisation and African intellectual *metissage*: Capacity building through higher education in Africa’ (2017) 31 *South African Journal of Higher Education* 81 at 82.

⁷⁸ Nelson Maldonado-Torres ‘On the coloniality of being: Contributions to the development of a concept’ (2007) 21 *Cultural Studies* 240–270 at 243.

⁷⁹ Upenyu S Majee & Susanne B Ress ‘Colonial legacies in internationalisation of higher education: Racial justice and geopolitical redress in South Africa and Brazil’ (2020) 50 *Compare: A Journal of Comparative and International Education* 463 at 476.

Some scholars emphasise the contribution which internationalisation can make to overcoming coloniality. Thondhlana et al argue that internationalisation can be a decolonial project, particularly because it can play a role in overcoming a colonial curriculum, and contend that the coloniality framework provides the opportunity to resist a homogenised understanding of internationalisation.⁸⁰ Du Preez argues that internationalisation and ‘its manifestation in the curriculum have a potentially transformative agenda’.⁸¹

However, other scholars are more sceptical about internationalisation. Teferra cautions that internationalisation in the Global South is often not intentional, but a result of coercion, driven by the Global North,⁸² and advocates that it should transform ‘to be locally grounded and internationally flavoured’.⁸³ A more radical decolonial critique of internationalisation is offered by Stein and Da Silva, who contend that universities are part of the existing global system which ‘is organized by modern/colonial institutions – including institutions of higher education – that are inherently violent and unsustainable’.⁸⁴ They advocate that internationalisation should be directed towards the possibility that this system may end,⁸⁵ and propose the imagining of ‘internationalisation otherwise’, different to that which is possible in the ‘dominant modern/colonial system’.⁸⁶

⁸⁰ Juliet Thondhlana, Hadiza Abdulrahman, Evelyn C Garwe & Simon McGrath ‘Exploring the internationalization of Zimbabwe’s higher education institutions through a decolonial lens: Postcolonial continuities and disruptions’ (2020) *Journal of Studies in International Education* 1 at 16. DOI: 10.1177/1028315320932319.

⁸¹ Petro du Preez ‘On decolonisation and internationalisation of university curricula: What can we learn from Rosi Braidotti?’ (2018) 74 *Journal of Education (University of KwaZulu-Natal)* 19–31.

⁸² Damtew Teferra ‘The irrelevance of the re-configured definition of internationalisation to the Global South: Intention versus coercion’ (2020) 7 *International Journal of African Higher Education* 157 at 169.

⁸³ Ibid, with reference to Damtew Teferra ‘From “dumb” decolonialization to “smart” internationalization: A requisite transition’ in Kara A Godwin & Hans de Wit (eds) *Intelligent Internationalization, The Shape of Things to Come* (2020) 73–79.

⁸⁴ Sharon Stein & Jhuliane E da Silva ‘Challenges and complexities of decolonizing internationalization in a time of global crises’ (2020) 22 *ETD-Educação Temática Digital* 546 at 548.

⁸⁵ Ibid at 548.

⁸⁶ Ibid at 563.

While it is certainly true that global higher education is presently dominated by European and American episteme and that China may be seeking future hegemony,⁸⁷ in the author's view it would be problematic to focus on deconstructing in order to make space for an unknown, uncertain future model of internationalisation. Instead, it would be more helpful to focus on developing a more inclusive, less elitist future model of inclusive internationalisation, which amplifies insights from currently ignored knowledge paradigms.⁸⁸

To this extent, it would be constructive if, first, the discourse on internationalisation could expand faster beyond the western world, which presently dominates it.⁸⁹ Not only should voices from presently under-represented contexts be amplified, but the process should also be enriched by infusing non-western philosophy and knowledge into the discourse. Second, internationalisation should evolve to become a process which connects a diversity of knowledge paradigms with each other, rather than connecting the world predominantly to the western knowledge paradigm.⁹⁰ Third, internationalisation should amplify knowledge systems of the Global South. For example, in the African context, Africanisation should be understood as complementary to internationalisation,⁹¹ and the continent should strive to define internationalisation intentionally to advance, in the words of Teferra, 'smart internationalisation that advances African academic, economic, social and political interests in the present and the

⁸⁷ See the discussion relating to the 'Chinese definition of internationalisation' infra in this chapter at section II(e).

⁸⁸ See De Wit et al op cit note 40.

⁸⁹ Hans de Wit 'Internationalisation in higher education: A western paradigm or a global, intentional and inclusive concept?' (2020) 7 *International Journal of African Higher Education* 31.

⁹⁰ See Elspeth Jones & Hans de Wit 'Globalization of internationalization: Thematic and regional reflections on a traditional concept' (2012) 3 *AUDEM: The International Journal of Higher Education and Democracy* 3 at 35, who propose a 'globalisation of internationalisation', which would include 'the need to learn from other non-western national and cultural contexts' and would 'ensure that no single approach or paradigm dominates the discourse' (ibid at 50).

⁹¹ De Wit op cit note 89 at 36. The processes should not only be considered complementary, but, as Hagenmeier, Lansink and Vukor-Quarshie propose, '(i)nternationalisation in Africa should be catalysed to reflect the unique identity of the continent and its universities, based on rich indigenous knowledge and cultural heritage' (Hagenmeier, Lansink & Vukor-Quarshie op cit note 77 at 99). See also Lesley le Grange 'Decolonising, Africanising, indigenising, and internationalising curriculum studies: Opportunities to (re) imagine the field' (2018) 74 *Journal of Education (University of KwaZulu-Natal)* 4–18 for a discussion of the relationship between the concepts.

future’.⁹² Fourth, existing and new collaborations and partnerships between the developing and developed world should be based on equality and embrace ethical principles, as is proposed in the Nelson Mandela Bay declaration.⁹³

(d) Aspects of internationalisation

Traditionally, a distinction is made between the ‘at home’ aspect of internationalisation and its ‘abroad’ component. The former includes curricular interventions, staff and student diversity and activities on a campus such as co-curricular internationalisation activities, guest lectures, incoming visiting professors and other initiatives to achieve international and intercultural outcomes through on-campus undertakings. In 1996 the Organisation for Economic Co-operation and Development (OECD) defined ‘internationalisation at home’ as ‘a curriculum with an international orientation in content and/or form, aimed at preparing students for performing (professionally/socially) in an international and multicultural context and designed for domestic and/or foreign students’.⁹⁴ This definition was widely criticised, for being too narrow, being based on neo-liberal perspectives and not considering ‘intercultural opportunities within a domestic context’.⁹⁵ Beelen and Jones recently proposed that ‘internationalisation at home’ should be re-defined to be regarded as the ‘purposeful integration of international and intercultural dimensions into the formal and informal curriculum for all students, within domestic learning environments’.⁹⁶ In the twenty-first century, the concept, which excludes all forms of mobility, has become accepted as an essential aspect of internationalisation.

⁹² Teferra ‘From “dumb” decolonialization to “smart” internationalization: A requisite transition’ op cit note 83.

⁹³ Op cit note 9.

⁹⁴ Organisation for Economic Co-operation and Development (OECD) *Internationalising the Curriculum in Higher Education* (1996). For a detailed discussion of this definition, see, for example, Paul Crowther, Michael Joris, Matthias Otten, Bengt Nilsson, Hanneke Teekens & Bernd Wächter ‘Internationalisation at Home: A Position Paper’ (2000) Amsterdam: EAIE.

⁹⁵ Jos Beelen & Elspeth Jones ‘Redefining internationalisation at home’ in Adrian Curaj et al (eds) *The European Higher Education Area: Between Critical Reflections and Future Policies* (2015) 59.

⁹⁶ Ibid at 69.

‘Internationalisation at home’ overlaps partially with the term ‘internationalisation of the curriculum’. Some commentators give curriculum a broad meaning in this context; it can be understood to include mobility and other aspects of university activities. For example, Jones and Killik⁹⁷ explain that they ‘do not see ... [the curriculum] being restricted to the content of a student’s formal programme of study’.⁹⁸ The concept would include ‘extended curriculum activities’ such as ‘student exchanges, volunteering, interactions with students beyond culture or comfort groups and engagement with clubs and societies’ and ‘those symbols and messages which convey the institutional ethos in which students study and which demonstrate a commitment to global perspectives and diversity’.⁹⁹ Recently, a new understanding of internationalisation of the curriculum was proposed by Leask, who defines it as ‘the incorporation of international, intercultural and global dimensions into the content of the curriculum as well as the learning outcomes, assessment tasks, teaching methods and support services of a program of study’.¹⁰⁰ This understanding is finding increasing support.

The ‘abroad’ aspect of internationalisation refers to all outgoing activities, such as student and staff exchanges or outgoing international capacity development movements.¹⁰¹ In De Wit’s words, it relates to all forms of education across borders;¹⁰² for example, it includes student, staff and programme mobility. While it is no longer the predominant aspect of internationalisation, it remains of central importance. Direct exposure of students to other countries remains a central tenet of institutional internationalisation strategies, and incoming exchange students are critical in allowing universities to structure ‘internationalisation at home’ interventions. Connecting the global and local dimensions of internationalisation has become a

⁹⁷ Elspeth Jones & David Killick ‘Internationalisation of the curriculum’ in Elspeth Jones & Sally Brown (eds) *Internationalising Higher Education* (2007) 109.

⁹⁸ Ibid.

⁹⁹ Ibid at 109–110.

¹⁰⁰ Betty Leask *Internationalising the Curriculum* (2015) at 9.

¹⁰¹ Depending on the specific understanding, there are overlaps with ‘internationalisation of the curriculum’.

¹⁰² De Wit op cit note 68 at 17.

central theme of the contemporary discourse, because they are interdependent and cannot be viewed in isolation.¹⁰³ The main challenge with an internationalisation approach, which is primarily based on internationalisation abroad, is that participation is limited to small numbers. Consequently, it fails to advance inclusive internationalisation models that advance ‘global learning for all’.¹⁰⁴

Murphy distinguishes between the internal, imported and exported components of the internationalisation process.¹⁰⁵ Unlike the traditional understanding, she breaks the ‘at home’ activities down into an ‘internal’ component, which ‘consists of internationalization of the curriculum ..., presentations by guest speakers and debates around international issues in which students, faculty, administrators or invitees may participate’.¹⁰⁶ On the other hand, the ‘imported component’ includes ‘those strategies ... which bring foreign peoples and ideas to campus for an extended period of time’.¹⁰⁷

Jooste chooses yet another perspective to categorise internationalisation.¹⁰⁸ He distinguishes between three characteristics of internationalisation institutions, namely, ‘internationalisation of the curriculum,’ ‘research and new knowledge generation’; the ‘integration of internationalisation of the university in the broader society’ and partnerships.¹⁰⁹

Ultimately, the different categorisations of internationalisation may help to provide structure to the academic discourse, but care should be taken not to develop silos within the

¹⁰³ Ibid at 25.

¹⁰⁴ Hans de Wit ‘Internationalization in higher education, a critical review’ (2019) 12 *Simon Fraser University Educational Review* 9. In this contribution, De Wit observes the tensions ‘between a short term neoliberal approach to internationalization, focusing primarily on mobility and research, and a long term comprehensive quality approach, global learning for all’.

¹⁰⁵ Murphy op cit note 63.

¹⁰⁶ Ibid at 183.

¹⁰⁷ Ibid at 184.

¹⁰⁸ Nico Jooste ‘Towards a comprehensive internationalisation practice’ *Study SA* 13 ed (2013) 38.

¹⁰⁹ Nico Jooste ‘Higher education partnerships for the future: A view from the South’ in Nico Jooste, Hans de Wit & Savo Heleta *Higher Education Partnerships for the Future* (2015) 11 at 17.

theory and practice of the process. The different aspects of the internationalisation process are interdependent, whereas internationalisation itself is deeply entrenched in global higher education and interwoven with many other processes. Consequently, any specific aspect of internationalisation needs to be studied in the broader higher education context and the fast-changing global political and social realities, and this is especially true for international university partnerships, which provide the umbrella and framework under which many of the activities belonging to the different categories of the process take place. The definitions and descriptions of aspects of the process of internationalisation are helpful in facilitating the topical discourse, but they should not be viewed as categorical and static. Instead, they are aids to deepening the understanding of the complex process of internationalisations which in itself is inextricably intertwined with globalisation.

(e) Rationales for internationalisation

Rationales respond to the question ‘why’ to internationalise. De Wit explains that ‘[r]ationales can be described as motivations for integrating an international dimension into higher education’.¹¹⁰ Generally, four different rationales for internationalisation can be distinguished: social and cultural, political, academic, and economic.¹¹¹

The first category refers to the desire to develop cultural and social understanding between nations, drive social and community development, and develop a sense of identity.¹¹² This rationale for internationalisation includes the notions of promoting intercultural understanding

¹¹⁰ Hans de Wit ‘Internationalization of Higher Education in the United States of America and Europe: A Historical, Comparative, and Conceptual Analysis’ (PhD dissertation, Amsterdam University, 2001) 78.

¹¹¹ Hans de Wit *Internationalization of Higher Education in the United States of America and Europe: A Historical, Comparative, and Conceptual Analysis* (2002) 83–102; see also Jane Knight ‘Concepts, rationales, and interpretive frameworks in the internationalisation of higher education’ in Darla K Deardorff, Hans de Wit, John Heyl & Tony Adams (eds) *The SAGE Handbook of International Higher Education* (2012) 42 at 48.

¹¹² De Wit op cit note 63 at 17.

as well as a national cultural identity.¹¹³ On the other hand, it can also relate to ‘a nationalist argument, one which emphasises the export of national and cultural and moral values.’¹¹⁴ While this notion is historically often attributed to French and US policy,¹¹⁵ it may also be reflected in contemporary Chinese internationalisation. Based on empirical research amongst internationalisation professionals, Liu proposes a Chinese understanding of internationalisation which includes the notion ‘to export the Chinese discourse, voice and cultural understanding in the international community through international student education in China and Chinese language/culture promotion overseas’.¹¹⁶ An interesting example is observed by Murphy, who notes that ‘the Japanese government promotes Japanese culture and citizenship, encouraging the learning of English but simultaneously promoting Japaneseness’.¹¹⁷ Social rationales relate to ‘internationalisation for the individual’¹¹⁸ and personal growth through international exposure.

The second category, political rationales, refers to motives relating to ‘foreign policy, national security, technical assistance, peace and mutual understanding, national and regional identity’.¹¹⁹ Murphy suggests that internationalisation is considered ‘central to solving many of the world’s conflicts’.¹²⁰ At the systemic level, countries afford students from other parts of the world educational opportunities to facilitate political linkages and affinity. Another political rationale for internationalisation is regional integration and identity building. Moshin and Zaaman mention, in the context of the Asian-Pacific regional identity, that through such a move,

¹¹³ Jane Knight ‘Internationalization remodeled: Definition, approaches, and rationales’ (2004) 8 *Journal of Studies in International Education* 5 at 25.

¹¹⁴ De Wit op cit note 110 at 86.

¹¹⁵ Ibid.

¹¹⁶ Wei Liu ‘The Chinese definition of internationalisation in higher education’ (2020) *Journal of Higher Education Policy and Management* 1 at 13.

¹¹⁷ Murphy op cit note 63 at 172.

¹¹⁸ De Wit op cit note 110 at 87.

¹¹⁹ Hans de Wit *Internationalisation of Higher Education in Europe and its Assessment, Trends and Issues* (2010) at 9.

¹²⁰ Murphy op cit note 63.

it would be possible ‘for higher education and society as a whole’ to ‘move away from’ Western dominance.¹²¹ In Europe, the idea of Europeanisation has resulted in regional integration of higher education which was catalysed *inter alia* through the Bologna process. In Africa, the idea of Africanisation was conceptualised, and can be understood to ‘mean that the higher education system should be informed by the knowledge, values, experiences, aspirations, economic objectives of Africans’.¹²² World regions which have been afflicted by colonialism could use regionalisation of higher education to emphasise and develop common cultural and linguistic sources as a catalyst to highlight that the shared heritage is stronger than the often artificial colonial boundaries. For example, in the Southern African region, the shared identity of Shangaan people across three nations (South Africa, Mozambique and Zimbabwe) and the shared identity of the VhaVenda people across two nations (South Africa and Zimbabwe) could be developed through collaboration in higher education to overcome the artificial boundaries dividing the region.¹²³

Academic rationales focus on enriching university education and research. They respond to the call to for ‘improved quality of teaching and learning as well as research’¹²⁴ through internationalisation and the achievement of learning outcomes. As internationalisation evolves, attention is generally more focused on graduate outcomes. The development of internationally and interculturally competent graduates is not only academically important, but also enhances

¹²¹ Moshin & Zaman op cit note 35 at 12.

¹²² Hagenmeier, Lansink & Vukor-Quarshie op cit note 77 with reference to M Makgoba & S Seepe ‘Knowledge and identity: An African vision of higher education transformation’ in *Towards an African Identity of Higher Education* (2004) 13–58 at 41; Annette Lansink ‘The African university: Contestations in the production of knowledge and identity’ in *Towards an African Identity of Higher Education* (2004) 121–144; Teboho J Lebakeng ‘Towards a relevant higher education epistemology’ in *Towards an African Identity of Higher Education* (2004) 109–120.

¹²³ Cornelius Hagenmeier ‘Innovative approaches to internationalisation in rural South Africa: The case of the University of Venda’ in Hans de Wit, Jocelyne Gacel-Avila, Elspeth Jones & Nico Jooste (eds) *The Globalization of Internationalization: Emerging Voices and Perspectives* (2017) 171 at 177.

¹²⁴ Eva Egron-Polak (writing for the International Association of Universities (IAU) in her capacity as Secretary-General) ‘Affirming academic values in internationalization of higher education: A call for action’ (2012) *Global Higher Education*, available at <https://globalhighered.wordpress.com/2012/04/19/affirming-academic-values-in-internationalization/> (accessed 7 February 2021).

the attractiveness of an institution for both domestic and international students and its institutional standing. Employability of graduates is a related rationale for internationalisation; underlying it is a utilitarian understanding of higher education programmes as being delivered with the purpose of ensuring that graduates are fit for the employment market.

The fourth category, economic rationales, focuses on enhancing competitiveness at both the national and institutional levels. Economic rationales encompass the drive to enhance institutional standing and the ambition to attract students and scholars to a national system and/or institution of higher learning. This category relates to the increasing commodification of international higher education, with it being considered as a service within the ambit of the General Agreement on Trade in Services (GATS),¹²⁵ a multilateral agreement under the remit of the World Trade Organisation (WTO), which advances the liberalisation of trade in services amongst members.¹²⁶ Attracting international students who are paying higher international fees is another economic driver for internationalisation processes.¹²⁷ Countries in the South-East Asian region have adopted international education as an element of their socio-economic development strategies.¹²⁸

It is important to remember that there is no single set of rationales which motivates all internationalisation processes. Contemporary internationalisation is characterised by opposing undercurrents. Commercialisation and increasing competition between universities have resulted in the process becoming more focused on income generation, particularly through international student fees. Simultaneously, the commodification of international education is

¹²⁵ Jane Knight Higher Education Crossing Borders: A Guide to the Implications of the General Agreement on Trade in Services (GATS) for Cross-border Education (2006).

¹²⁶ See, for example, Susan Robertson 'WTO/GATS and the global education services industry' (2003) 1 *Globalisation, Societies and Education* 259 for a critical discussion of the relationship between higher education, the WTO and GATS.

¹²⁷ De Wit op cit note 110 at 84.

¹²⁸ Moshin & Zaman op cit note 35 at 10.

advancing, and international students are increasingly viewed as recipients of educational services who pay for an education to increase their employability in a globalised world.

On the other hand, a counter-tendency appears to be emerging, which focuses on academic values and attempts to shape graduates as responsible global citizens. Emphasis is being placed on intercultural competence, development of cultural sensitivity, and the ability to respect and appreciate other cultures.¹²⁹ Universities are expected to produce rounded individuals who contribute to the development of inclusive and socially just societies. Notably, the International Association of Universities (IAU) has called for affirming values underpinning internationalisation,¹³⁰ and has emphasised *inter alia* the pursuit of socially responsible practices, integrity, and the ‘safeguarding and promotion of cultural and linguistic diversity and respecting local concerns and practises when working outside one’s own nation’.¹³¹ Institutional support for a focus on academic values was evidenced by the 2012 IAU Global Survey,¹³² which was based on responses received from 1 336 higher education institutions worldwide. The responses identified academic goals as the most important values and principles underlying internationalisation.

(f) Risks associated with internationalisation and their mitigation

While the importance of deepening and broadening the process of internationalisation is broadly recognised, it is equally essential to consider the potential risks involved. The IAU¹³³ has identified possible adverse consequences of internationalisation, including cultural homogenisation, caused specifically by the prevalence of English; diminishing institutional

¹²⁹ See, for example, Darla Deardorff & Elspeth Jones ‘Intercultural competence’ in Darla K Deardorff, Hans de Wit, John D Heyl & Tony Adams (eds) *The SAGE Handbook of International Higher Education* (2012) 147 for a discussion of intercultural competence and related outcomes.

¹³⁰ Egron-Polak op cit note 124.

¹³¹ Ibid.

¹³² Eva Egron-Polak & Ross Hudson *Internationalisation of Higher Education: Growing Expectations, Fundamental Values* International Association of Universities 4th Global Survey (2012).

¹³³ Ibid.

diversity pursuant to the pursuit of a single model of excellence; and increased brain drain. The 2012 IAU Global Survey¹³⁴ revealed that the limitation of international opportunities to students with financial resources (mentioned by 31 per cent of respondents as the most significant risk) and the commodification of education (identified as the greatest risk by 19 per cent of respondents) are viewed as the most significant risks associated with internationalisation by higher education institutions. Underlying many of the concerns, such as the commodification of education, brain drain or the limitation of international opportunities to financially well-resourced students, are equity concerns.

Moshin and Zaman add that internationalisation may result in the weakening of institutional reputation because the standard of international programmes may not be equivalent to that of the home institution.¹³⁵ Ramirez notes that internationalisation in the contemporary global context may result in dynamics of inclusion and exclusion, to the detriment of those who lack the capacity to amalgamate with dominant forms of internationalisation.¹³⁶ The quest to participate in mainstream internationalisation activities and the attention afforded to a global reality may divert attention from quality and the immediate context.

Murphy¹³⁷ refers to a study by Pinto and Sunkel¹³⁸ which found that many foreign-educated Mexican economists would disconnect from their own countries. Her study identifies ‘the adoption of foreign models; the potential loss of human and intellectual capital and the weakening of the domestic university system’¹³⁹ as the core risks associated with the process of internationalisation in Mexico. Benatar emphasises that research involving rich and poor

¹³⁴ Ibid.

¹³⁵ Moshin & Zaman op cit note 35.

¹³⁶ Alma A Ramirez ‘Conditions for the internationalisation of higher education: Between inclusion and exclusion in a globalised world’ in *Globalisation and Internationalisation of Higher Education* [online monograph] 8 *Revista de Universidad y Sociedad del Conocimiento (RUSC)* 313 at 321.

¹³⁷ Murphy op cit note 63.

¹³⁸ Anibal Pinto & Osvaldo Sunkel ‘Latin American economists in the United States’, translation by Bryce Wood (1966) 15 *Economic Development and Social Change* 79.

¹³⁹ Murphy op cit note 63 at 178.

countries in particular can be potentially exploitative.¹⁴⁰ He emphasises the risk emanating from the powerful forces of imperialistic processes, in which privileged people are often unwittingly co-opted.¹⁴¹

De Wit et al identify in the context of higher education partnerships the risk of ‘elitism which can exclude institutions and regions and create a “divided higher education space”, typically favouring the North more than the Global South’.¹⁴² The global context of a world divided into rich and poor societies, developed and developing countries, underscored by stark divisions in the wealth of nations is the background against which internationalisation processes have to be developed. Inequalities permeate the dynamics of the process of internationalisation. Altbach observes that–

deep inequalities undergird many of the current trends in globalisation and internationalisation in higher education, and they need to be understood as part of the picture. A few countries dominate global scientific systems, and new technologies are owned primarily by multinational corporations or academic institutions in the major Western industrialised nations, and the domination of English creates advantages for the countries that use English as the medium of instruction and research. All this means that the developing countries find themselves dependent on the major academic superpowers.¹⁴³

It appears that internationalisation is perceived by many as contributing to growing global inequalities rather than countering such tendencies. However, the challenge does not lie with internationalisation, but with the growing global inequalities reflected in higher education internationalisation. Internationalised higher education is a reflection of the global society, which is characterised by stark inequalities. It would be impossible to stop economic globalisation, to which higher education responds and in which it operates, through

¹⁴⁰ Solomon R Benatar ‘Imperialism, research ethics and global health’ (1998) 24 *Journal of Medical Ethics* 221.

¹⁴¹ Ibid at 222.

¹⁴² De Wit et al op cit note 40 at 53.

¹⁴³ Philip G Altbach ‘Perspectives on internationalising higher education’ (2002) 27 *International Higher Education* 6.

internationalisation. Instead, the sector needs to develop the process of internationalisation to contribute to a global higher education sector which leads humanity's quest for finding responses to cross-cutting global challenges such as poverty, food security, climate change, global health, cultural homogenisation, and religious as well as political fundamentalism. Many of the risks associated with internationalisation are related to power asymmetries in global higher education. If higher education wants to be taken seriously as a critical global stakeholder, it should not neglect equality challenges in its own sphere, but rather lead by example through structuring processes which mitigate the challenges caused by the disproportionate strength of select universities.

Closely related to risks of internationalisation are misconceptions of and myths concerning the process. De Wit identifies nine misconceptions of internationalisation, which consider internationalisation 'synonymous with a specific programmatic or organizational strategy to promote internationalization'.¹⁴⁴ Those misconceptions carry the risk of unintended consequences, which can adversely affect higher education. They include perceiving internationalisation as equivalent to English language education, resulting in a decreasing focus on other foreign languages and a low quality of English used in education, impacting quality.¹⁴⁵ De Wit also notes the misconception that the more partnerships a university has, the greater its success in internationalisation.¹⁴⁶ Knight expands on the same theme by articulating that one of the myths relating to internationalisation is 'that the greater number of international agreements or network memberships a university has the more prestigious and attractive it is to other institutions and students.'¹⁴⁷ She extrapolates that most institutions cannot manage such high

¹⁴⁴ Hans de Wit 'Global: Internationalisation of higher education: Nine misconceptions' in *Understanding Higher Education Internationalization: Insights from Key Global Publications* (2017) 9 at 9.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid at 11.

¹⁴⁷ Jane Knight 'Five myths about internationalization' (2011) *International Higher Education* 14 at 15.

numbers and ‘quantity [is] seen as more important than quality’.¹⁴⁸ She alludes to a trend to limit partnerships to ten to twenty ‘institution-wide priority partnerships’, which–

can lead to more comprehensive and sustainable relationships but also to a sense of disgruntlement among faculty members and researchers about a top-down approach to internationalization and the curtailment of individual international research or curricular interests.¹⁴⁹

III. Higher education partnerships

De Wit et al observe that higher education academic partnerships have become ‘a defining feature of higher education and an essential part of internationalisation’.¹⁵⁰ Maringe and De Wit note the ‘increasing strategic significance [of higher education partnerships] since 1990’.¹⁵¹ A wide range of general literature is available on higher education partnerships,¹⁵² and various works provide valuable case studies of higher education partnerships¹⁵³ or consider the topic

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ De Wit et al op cit note 40 at 53.

¹⁵¹ Maringe & De Wit op cit note 7.

¹⁵² Sutton et al op cit note 6; Susan Buck Sutton & Daniel Obst ‘Introduction: The changing landscape of international partnerships’ in Susan Sutton & Daniel Obst (eds) *Developing Strategic International Partnerships: Models for Initiating and Sustaining Innovative Institutional Linkages* (2011) xiii; Susan Buck Sutton ‘Transforming internationalisation through partnerships’ (2010) 19 *International Educator* 60; Susan Buck Sutton ‘Nine principles for achieving the full potential of collaborative partnerships’ (2015) 24 *International Educator* 48; Robin Matross Helms *International Higher Education Partnerships: A Global Review of Standards and Practice* (2015) available at <http://www.acenet.edu/news-room/Documents/CIGE-Insights-Intl-Higher-Ed-Partnerships.pdf> (accessed 16 December 2020); B Anderson & M Maharasoa ‘Internationalisation of higher education: Facilitating partnerships between universities’ (2002) 16 *South African Journal of Higher Education* 15; Michael Lanford ‘Long-term sustainability in global higher education partnerships’ in *Successful Global Collaborations in Higher Education Institutions* (2020) 87–93; Chrystal Mwangi ‘Partner positioning: Examining international higher education partnerships through a mutuality lens’ (2017) 41 *The Review of Higher Education* 33; John Hudzik ‘Strategic institutional partnerships and comprehensive internationalisation’ in Nico Jooste, Hans de Wit & Savo Heleta (eds) *Higher Education Partnerships for the Future* (2015) 23; Peter H Koehn & Milton O Obamba *The Transnationally Partnered University, Insights from Research and Sustainable Development Collaborations in Africa* (2014); Jie Ma & Catherine Montgomery ‘Constructing sustainable international partnerships in higher education: Linking the strategic and contingent through interpersonal relationships in the United Kingdom and China’ (2019) 23 *Journal of Studies in International Education* 1–16, DOI <https://doi.org/10.1177/1028315319865784> (accessed on 10 January 2021); Christopher John Bamber & Enis Elez ‘Factors affecting sustainable higher education partnerships’ in Ramona-Diana Leon (ed) *Strategies for Business Sustainability in a Collaborative Economy* (2020) 61.

¹⁵³ Takoi K Hamrita ‘Building a holistic international educational partnership: Collaboration between the University of Georgia and the Tunisian higher education system’ (2012) 4 *Journal of Community Engagement and Scholarship* 1–10; Isabel Canto & Janet Hannah ‘A partnership of equals? Academic collaboration between the United Kingdom and Brazil’ (2006) 5 *Journal of Studies in International Education* 26; James D Gieser ‘An international academic partnership through a policy implementation lens: Top-down, bottom-up or somewhere in

from the perspective of a specific country.¹⁵⁴ However, the researcher's previous assessment that '[t]he theoretical underpinnings of bilateral and multilateral university partnerships remain to be fully analysed and understood' still applies.¹⁵⁵ As the researcher noted earlier, Semali, Baker and Freer characterise the 'literature of the challenges regarding academic partnerships in higher education' as disparate,¹⁵⁶ and observe that 'there have been few systematic and critical studies to examine such relationships'.¹⁵⁷ This view is echoed by Koehn and Obamba, who argue with reference to Holm and Malete¹⁵⁸ that 'participants in partnership activities generally move on without engaging in critical analysis of the assumptions that underlie motivating and structuring perspectives'.¹⁵⁹ There is a realisation of the importance of advancing relevant research. For example, as noted by the researcher earlier¹⁶⁰ and indicated in the introductory chapter,¹⁶¹ the Nelson Mandela Bay Declaration on the Future of Internationalisation stated 'that the future agenda for internationalisation should in particular

between?' (2016) 2 *FIRE: Forum for International Research in Education* 2; Grant op cit note 58; Andrew Gunn & Michael Minstrom 'Global university alliances and the creation of a collaborative advantage' (2013) 35 *Journal of Higher Education Policy and Management* 179; Kitaw Kassie 'The practice of HE partnership between Ethiopia and India: A case of a partnership between Defense Engineering College (Ethiopia) and Indian Institute of Technology, Kanpur' (2016) *International Journal of Sciences: Basic and Applied Research* 22; Mary Nakabugo, Eimear Barrett, Peter McEvoy & Ronaldo Munck 'Best practice in North-South research relationships in higher education: The Irish African partnership model' (2010) 10 *Policy & Practice: A Development Education Review* 89; Anatoly Oleksiyenko 'Reconciling tensions between excellence, access and equity in multilateral R&D partnerships: A Canadian collaborators' perspective' (2015) 28 *Higher Education Policy* 198; Samia Chasi 'North-South Partnerships in Public Higher Education: A Selected South African Case Study' (PhD dissertation, University of the Witwatersrand, 2019); Brian Uy Doce 'Edu-Connect and Southern Taiwan's dreams of an imagined region' (2020) 8 *Malaysian Journal of International Relations* 118.

¹⁵⁴ Rami M Ayoubi & Amin Al-Habaibeh 'A case study of international partnerships in four UK leading universities' (2006) 20 *International Journal of Educational Management* 380; Troy Heffernan & David Poole 'In search of "the vibe": Creating effective international education partnerships' (2005) 50 *Higher Education Partnerships* 223; Wiley & Root op cit note 53; Catherine Montgomery 'Transnational partnerships in higher education in China: The diversity and complexity of elite strategic alliances' (2016) 14 *London Review of Education* 70.

¹⁵⁵ Hagenmeier op cit note 9.

¹⁵⁶ Ladislaus M Semali, Rose Baker & Rob Freer 'Multi-institutional partnerships for higher education in Africa: A case study of assumptions of international academic collaboration' (2013) 2 *International Journal of Higher Education* 53 at 64.

¹⁵⁷ Ibid at 53.

¹⁵⁸ John D Holm & Leapetsewe Malete 'Nine problems that hinder partnerships in Africa' *The Chronicle of Higher Education* 18 June 2010 at A28-A29.

¹⁵⁹ Koehn & Obamba op cit note 152 at 13.

¹⁶⁰ Hagenmeier op cit note 9.

¹⁶¹ See above chapter 1.

concentrate’ on ‘three areas of development’, including ‘gaining commitment on a global basis to equal and ethical higher education partnerships’.¹⁶²

(a) The concept of international higher education partnerships

According to Sutton et al, ‘international higher education partnerships are not simply one tactic amongst many, but rather a defining characteristic of academic internationalisation’.¹⁶³ Their importance for the process of internationalisation has been acknowledged.¹⁶⁴ Presently, there is no single generally accepted definition of the term. For the purposes of this study, it will be important to get a clear understanding of the scope of the concept and develop a suitable working definition. This process will commence by considering the prevailing understandings of partnerships and the unpacking of definitions offered in the existing specific higher education partnership literature. Where appropriate, reference will be made to definitions and conceptual discussions of partnerships in other discourses, such as law and development. At the end of the section, a working definition of the term ‘partnership’ for the higher education context will be proposed, which will be used for the thesis.

Different definitions for partnerships are used, depending on the discipline or context. In the *Concise Oxford English Dictionary*, the term is defined as–

the state of being a partner – the partner being a person or organisation who shares or takes part with another or others, in terms of sharing, business, profit and so on. It is usually business related.¹⁶⁵

A wide range of understandings of the term is articulated in the discourse on internationalisation. At one end of the spectrum, a broad, inclusive approach is proposed. For

¹⁶² Global Dialogue hosted by the International Education Association of South Africa op cit note 9 at 2.

¹⁶³ Sutton et al op cit note 6 at 161.

¹⁶⁴ Altbach, Reisberg & Rumbley op cit note 2.

¹⁶⁵ Concise Oxford English Dictionary (2011).

example, Maringe and De Wit,¹⁶⁶ citing Bullough and Kauchak,¹⁶⁷ describe higher education partnerships as ‘any formal or informal working together by two or more higher education entities in pursuit of common goals’.¹⁶⁸ On the other perimeter of the academic debate is the more formalistic understanding of international university partnerships, which focuses on the notion that collaborations should be entrenched in Memoranda of Understanding to qualify as international university partnerships.¹⁶⁹ Koehn and Obamba elaborate that they are characterised by ‘formal agreements, few parties, and dense collaborative projects’.¹⁷⁰ Horton, Prain and Thiele observe that ‘in the field of international research and development’ the term is utilised to refer to ‘collaborative relationships between organizations that are pursuing common objectives, not to a business entity owned by individuals who share profits and losses’.¹⁷¹

Semali, Baker and Freer¹⁷² take a broader approach and define ‘[p]artnerships in education and development’ as ‘mutually beneficial relationships between two or more institutions, including businesses, industries, universities, non-governmental organizations (NGOs), school systems, and service organizations’.¹⁷³ In the context of partnerships between universities in developed and developing contexts, Samoff and Carrol¹⁷⁴ distinguish partnerships from foreign aid:

[A] partnership must involve a collaboration that can reasonably be expected to have mutual (though not necessarily identical) benefits, that will contribute to the development of institutional and individual capacities at both institutions, that respects the sovereignty and autonomy of both institutions, and that is itself empowering,

¹⁶⁶ Maringe & De Wit op cit note 7.

¹⁶⁷ JR Bullough & D Kauchak ‘Partnerships between higher education and secondary schools: Some problems’ (1997) 23 *Journal of Education for Teaching* 215.

¹⁶⁸ Maringe & De Wit op cit note 7 at 402.

¹⁶⁹ Phirom Leng ‘International University Partnerships in Contemporary Cambodian HE’ (PhD thesis, University of Toronto, 2015) at 11.

¹⁷⁰ Koehn & Obamba op cit note 152 at 21.

¹⁷¹ Douglas Horton, Gordon Prain & Graham Thiele *Perspectives on Partnerships: A Literature Review* (2009) at 9.

¹⁷² Semali, Baker & Freer op cit note 156.

¹⁷³ Ibid 156, citing Carol L Alpert ‘Broadening and deepening the impact: A theoretical framework for partnerships between science museums and STEM research centres’ (2009) 23 *Social Epistemology* 267.

¹⁷⁴ Joel Samoff & Bidemi Carrol ‘The promise of partnership and continuities of dependence: External support to higher education in Africa’ (2004) 47 *African Studies Review* 67 at 116.

enabling both partners to specify goals, chart directions, create appropriate governance strategies, employ effective administrative routines, and focus human, material, and financial resources on high priority objectives.¹⁷⁵

However, they refrain from using any partnership definition as a delimitation and instead ‘take as a partnership whatever those involved choose to term a partnership’.¹⁷⁶

Wiley and Root¹⁷⁷ note that there is little agreement on the definition of partnerships and agree with Samoff and Carrol’s definition of an academic institutional partnership.¹⁷⁸ They expressly exclude economic assistance projects, individual research projects and ‘other projects of limited duration such as study abroad programs’ from the definition.¹⁷⁹ Kinser and Green refer to higher education partnerships as ‘cooperative agreements between a higher education institution and another distinct organisation to coordinate activities, share resources, or divide responsibilities related to a specific project or goal.’¹⁸⁰ Montgomery emphasises that ‘higher education partnerships are also influenced by a complex combination of geographical and sociocultural context.’¹⁸¹

Jooste advocates a fundamentally new conceptualisation of higher education partnerships.¹⁸² He proposes that in contradistinction to commercialisation, a ‘global commons’ should be created ‘where the collaborators see themselves as equals willing to share, innovate and work towards the common good of those “in the commons”’.¹⁸³ He cites *ubuntu*, the African value, which is in his view ‘understood by most to believe that a person is a person

¹⁷⁵ Ibid at 73.

¹⁷⁶ Ibid.

¹⁷⁷ Wiley & Root op cit note 53 at para 2.

¹⁷⁸ Samoff & Carrol op cit note 174 at 115.

¹⁷⁹ Ibid.

¹⁸⁰ Kevin Kinser & Madeleine F Green The Power of Partnerships: A Transatlantic Dialogue (2009) at 4.

¹⁸¹ Montgomery op cit note 154 at 82.

¹⁸² Jooste op cit note 109 at 11.

¹⁸³ Ibid at 15.

through other persons, that my humanity is caught up and bound up in that of the other'.¹⁸⁴ He is of the view that common spaces should be created and notes that the so-called 'family week', a regular gathering of the partner universities of Nelson Mandela Metropolitan University, is an example of how such common spaces for collaboration can emerge.¹⁸⁵

While Jooste is accurate in extrapolating the risks of commercialisation and marketisation of higher education, the conception of the 'global commons' would involve establishing a commons in which all universities are welcome to co-operate. It is doubtful whether the creation of common spaces which are available only to a select few will indeed accomplish the desired goal; the more likely scenario is that universities will group themselves in small networks, in which they live the values underlying the concept of the global commons *inter se*, while excluding others. While networks of universities are indeed beneficial for various reasons, it is submitted that it may be challenging for the 'global commons' to become the global space in which partnerships operate. Consequently, the direct impact of the concept may remain limited. Meanwhile, the notion that such a 'global commons', and higher education partnerships in general, should be rooted in values is important and will be considered in chapter 6 below.

Arguing from a perspective of comprehensive internationalisation, Hudzik emphasises the importance of integrating partnerships fully into an institution's mission 'in order to become an integral part of institutional capacity'.¹⁸⁶ He advocates a comprehensive approach to internationalisation and institutional partnerships; in this respect, he agrees with Sutton who states that internationalisation involves the 'inward process of integrating international

¹⁸⁴ Ibid at 16.

¹⁸⁵ Ibid.

¹⁸⁶ Hudzik op cit note 152 at 26.

perspectives into our institutions’ and the ‘outward process of positioning our institutions in global networks of learning, discovery and engagement’.¹⁸⁷

Legal definitions of partnerships vary. In South African law, a partnership may be defined as—

the legal relationship created by way of a contract between at least two or more persons, in terms of which each of the partners agrees to make some contribution to the partnership business, which is carried on for the joint benefit of the parties and the object of which is to make a profit.¹⁸⁸

In *Ex parte Buttner Brothers*¹⁸⁹ Watermeyer J remarked:

[T]he primary meaning of the word partnership is a contract of a particular kind, but it is also used to denote the relationship between the parties arising from the contract, and it is also used as an adjective in conjunction with the words property or estate, to describe the property or the estate which those persons hold in common for the purpose of carrying on their business.

In Australian law, a partnership is legally defined as ‘the relation which exists between persons carrying on a business in common with a view of profit’.¹⁹⁰ In German law, a legal partnership (*Gesellschaft Bürgerlichen Rechts*) is constituted by contractual agreement (which may be oral) between at least two persons who agree to collaborate to achieve a common purpose. It is regulated by sections 705 to 750 of the German Civil Code or *Bürgerliches Gesetzbuch*.¹⁹¹ It must be distinguished from a partnership cooperation, or *Partnerschaftsgesellschaft*, a business ‘entity in which members of independent professions

¹⁸⁷ Ibid at 60, citing Sutton (2010).

¹⁸⁸ Dennis Davis, Farouk Cassim, Walter Geach, Tshepo Mongalo, David Butler, Anneli Loubser, Lindi Coetzee & David Burdette *Companies and other Business Structures in South Africa* 2 ed (2010) 325, with reference to *Pezzutto v Dreyer* 1992 (3) SA 379 (A) at 390.

¹⁸⁹ 1930 CPD 138 at 145–146.

¹⁹⁰ Section 1 of the Partnership Acts 1892 of New South Wales. In Australia, every state has enacted its own partnership legislation; however, all statutes contain partnership definitions with substantively similar content. The cited example is from New South Wales. See, for example, Geoffrey Egert ‘Defining a partnership: The traditional approach versus an innovative departure – Do Queensland Appeal Court decisions point to the need for a review of the traditional approach to interpretation adopted by Australian courts?’ (2007) 19 *Bond Law Review* 99.

¹⁹¹ *Bürgerliches Gesetzbuch* 1896 as amended.

amalgamate for the pursuit of their profession'.¹⁹² The common denominator of legal partnership definitions is that they relate to legal relationships between two or more persons which are concluded to pursue a common purpose.

The Organisation for Economic Co-Operation and Development (OECD) has defined partnerships as–

[s]ystems of formalised co-operation, grounded in legally binding arrangements or informal understandings, co-operative working relationships, and mutually adopted plans among a number of institutions. They involve agreements on policy and programme objectives and the sharing of responsibility, resources, risks and benefits over a specified period of time.¹⁹³

The study of definitions proposed in the literature has revealed a rich diversity of partnership definitions, including some which are specific to higher education partnerships. Certain common themes can be observed, namely:

- collaboration;
- common purpose or shared vision;
- sharing of business or profit;
- mutuality, and specifically mutual benefit;
- based on values; and
- formalisation in legal documents.

Not all themes are present in all statements; in particular, the value-base and the need for formalisation are not uniformly argued in the literature. To develop a universally valid higher education partnership definition, it would be prudent to first conduct empirical research and

¹⁹² Section 1 *Partnerschaftsgesellschaftsgesetz* 1994 as amended (translated from German).

¹⁹³ Organisation for Economic Co-Operation and Development (OECD), cited in Ronald W McQuaid, Colin Lindsay, Matthew Dutton & Martin McCracken 'Working together? Research into the role of interagency co-operation in improving employability' (2006) 20 *Labour Market Bulletin* 164 at 165. The definition is based on Christian Huillet & Pieter van Dijk 'Partnerships for rural development' (1992) 162 *OECD Observer* 19.

involve a wide range of practitioners in the process. For the purposes of this study, it suffices to adopt a broad working definition of higher education partnerships. This thesis will apply the broad definition proposed by Maringe and De Wit,¹⁹⁴ which considers partnerships to be ‘any formal or informal working together by two or more higher education entities in pursuit of common goals’,¹⁹⁵ and is sufficiently broad to canvass diverse higher education partnerships. For the purposes of this thesis, it is essential to include the broad, diverse spectrum of higher education partnerships, without excluding any partnership because it fails to comply with formal definitional requirements. Nevertheless, the development of a succinct definition of higher education partnerships would be beneficial and should be the subject of further research.

(b) Types of partnerships in higher education

There is a wide variety of higher education partnerships and collaborations. In this section, different types of partnerships will be introduced, and several categorisations which have been proposed in the literature will be considered. The analysis will be based on the typology of ‘academic associations, academic consortia and institutional networks’ proposed by Stockley and De Wit.¹⁹⁶

- *Academic associations*

This type of collaboration can be defined as—

an organisation of academics or administrators and/or their organisational units (departments, centres, schools, institutions), united for a common purpose, which is related to their professional development (information exchange, training, advocacy, and so on).¹⁹⁷

¹⁹⁴ Maringe & De Wit op cit note 7.

¹⁹⁵ Ibid at 401, citing Bullough & Kauchak op cit note 167.

¹⁹⁶ David Stockley & Hans de Wit ‘The increasing relevance of institutional networks’ in Hans de Wit (ed) *Trends, Issues and Challenges in Internationalization of Higher Education* (2011) 45.

¹⁹⁷ Ibid at 46.

Academic associations have been a feature of the collaborative landscape for a long time, and a variety of organisational structures exists. Some are based on institutional membership,¹⁹⁸ while others are constituted by individual members¹⁹⁹ or are a combination of both types.²⁰⁰ There is a vast diversity of purposes, management models, denominations and focus areas. They are seminal to the self-organisation of the academic profession.²⁰¹

- *Academic consortia*

Academic consortia can be understood as—

a group of academic units (departments, centres, schools, institutions) which is united for the single purpose of fulfilling a contract, based on bringing together a number of different areas of specialised knowledge. In principle, its lifespan is limited by the terms of the contract.²⁰²

Partnerships models have become a preferred mode for the provision of external support to higher education.²⁰³ Consortium bids are frequently required by major funders like the European Union, the Asian Development Bank, or the World Bank,²⁰⁴ and at times it is required that bids must include applicants from various nations. For example, the European Union's Erasmus + programme and the now completed Erasmus programme are based on consortium bids. The life span of many consortia is limited to the funding cycle, but some evolve into sustainable networks.²⁰⁵

¹⁹⁸ Examples of academic associations which are principally based on institutional membership are the International Association of Universities (IAU), the African Association of Universities (AAU), the Southern African Regional Universities Association (SARUA) and the International Association of Law Schools (IALS).

¹⁹⁹ For example, the European Association for International Education (EAIE).

²⁰⁰ For example, the International Education Association of South Africa (IEASA).

²⁰¹ See, for example, Tatiana Fumasoli & Marco Seeber 'Scholarly or socially relevant? An examination of European academic associations' (2018) 17 *European Educational Research Journal* 385 for a comprehensive discussion of academic consortia in the European context.

²⁰² Stockley & De Wit op cit note 196 at 47.

²⁰³ Samoff & Carroll op cit note 174 at 71.

²⁰⁴ Stockley & De Wit op cit note 196 at 46.

²⁰⁵ See the discussion by Stockley & De Wit *ibid*.

- *Networks*

Networks, including those which also involve non-university partners, have recently gained increasing prominence. An institutional network can be described as—

a group of academic units (departments, centres, schools, institutions) which is united for, in general, multiple – academic and/or administrative – purposes, is leadership driven and has an indefinite lifespan.²⁰⁶

There is no clear delineation between networks and partnerships. Most higher education networks bear the characteristics of partnerships but are multilateral in character. In addition, it is not clear what minimum number of partners is required to constitute a network. Stockley and De Wit observe that ‘the recent rise of multilateral associations, consortia and networks in higher education reflects the multilateral character of the process.’²⁰⁷ Koehn and Obamba argue that they are located on one end of the ‘collaboration continuum, ... and consist of looser and shifting interactions among numerous participants who engage irregularly in “flows” or transactions, without screening, through non-territorial and non-hierarchical individual or collective nodes’,²⁰⁸ whereas partnerships are located on the other end.²⁰⁹ Some networks evolve out of academic consortia,²¹⁰ whereas others are leadership-driven, institutional networks.²¹¹

(c) Categories of partnerships

Closely related to the typology are proposals for categorisations of partnership, which are made in the literature. In some instances, definitions have been proposed for specific categories of

²⁰⁶ Stockley & De Wit op cit note 196 at 48.

²⁰⁷ Ibid at 46.

²⁰⁸ Koehn & Obamba op cit note 152 at 21.

²⁰⁹ Ibid.

²¹⁰ For example, the Utrecht Network.

²¹¹ For example, the South African Nordic Centre (SANORD) or the International Network of Universities (INU).

partnerships. In this section, some useful categorisations of partnerships proposed in academic writings will be introduced.

- *Asymmetrical and horizontal partnerships*

A useful frame of reference is the distinction between symmetrical and asymmetrical partnerships. Canto and Hannah distinguish between asymmetrical partnerships and horizontal partnerships,²¹² a distinction which is based on Selvaratnam's understanding of asymmetry in higher education collaboration. Drawing from a dependency model, Selvaratnam explains:

Once this collaborative research agenda was agreed upon between Western scholars and their counterparts in the developing countries, an asymmetrical relationship developed. The theoretical framework, the research design, the priorities in collecting data were decided by the Western collaborator.²¹³

From this, asymmetrical partnerships are 'characterized by the training of students in the universities of developed countries, the circulation of scholars from developed to developing countries and the transference of techniques'.²¹⁴ In horizontal partnerships, collaborators would interact as equals, not as donor and recipient. Characteristics would include 'the existence of previous knowledge of the other partners to establish realistic expectations', 'the genuine sharing of each other's experiences', and 'the application of each other's knowledge rather than a one-way transfer'.²¹⁵ Koehn and Obamba take a similar approach, referring in their theoretical framework to asymmetry and symmetry in transnational higher education partnerships.²¹⁶ They advocate near-symmetry in partnerships, which in their view allows for slight variations.²¹⁷

²¹² Canto & Hannah op cit note 153 with further references.

²¹³ Viswanathan Selvaratnam 'Higher education co-operation and Western dominance of knowledge creation and flows in Third World countries' (1988) 17 *Higher Education* 41.

²¹⁴ Canto & Hannah op cit note 153 at 32 with further references.

²¹⁵ Ibid.

²¹⁶ Koehn & Obamba op cit note 152 at 71.

²¹⁷ Ibid at 32.

- *Transformational and transactional partnerships*

Sutton et al contrast transformational and transactional partnerships.²¹⁸ The former would be characterised by limited exchanges of resources, which are traded ‘in clearly specified fashion’.²¹⁹ On the other end of the scale, ‘transformational partnerships’ would ‘develop common goals and projects over time in which resources are combined, and the partnerships are expansive, ever-growing, and relationship-oriented’.²²⁰ The latter would require a far greater investment, but rewards would follow in terms of capacity gains for the core business. They observe a general move from transactional to transformational partnerships. While this observation is correct, it is necessary to recall that the vast majority of partnerships are located somewhere in the middle of the spectrum. Whilst the goal of building institutions through transformational partnerships is an important one, and more institutions will likely strive for transformational collaboration, it is submitted that transactional, at times ad hoc, collaborations will always remain relevant to higher education.

- *Strategic partnerships v activity-based partnerships*

In recent academic discourse, a reference to ‘strategic partnerships’ has become popular. Kuder proposes this understanding:

A strategic partnership is a formal alliance between two or more higher education institutions developed through an intentional process whereby the partners share resources and leverage complementary strengths to achieve defined common objectives. Strategic co-operation is tied to the strategic goals and objectives of an academic unit, college, or the university as a whole. It indicates a multi-dimensional engagement between the involved institutions and implies the joint undertaking of a diverse range of activities with the aim of the parties’ mutual benefit.²²¹

²¹⁸ Sutton et al op cit note 6 at 167.

²¹⁹ Sutton (2010) op cit note 152 at 61.

²²⁰ Ibid.

²²¹ Matthias Kuder & Clare Banks ‘Current Trends in Strategic International Partnerships’ in Global Perspectives on Strategic International Partnerships: A Guide to Building Sustainable Academic Linkages (2016) xi-xxiv.

Stockley and De Wit ‘observe a trend to rationalisation of partnerships and a focus on a small number of strategic partners and networks’,²²² and refer to the following characteristics of strategic alliances proposed by Van Ginkel:

congruence of missions, the will to invest through budget allocation and extra resources, appointment of liaison officers to bridge the differences in culture between the partners, strong agreement on methodology and quality standards; agreement on intellectual property rights, and taking time getting to know each other.²²³

Strategic partnerships are also applied as a category by Sandström and Weimer, who regard them as ‘those [partnerships] that encourage durable collaboration between institutions and organisations by building sustainable academic networks, strengthening exchanges amongst students and staff, and enhancing exchanges of knowledge and practices’.²²⁴ This definition is extensive, and the preferred approach should be to require multi-dimensional engagement linked to specific strategic goals and include transformational intent as a prerequisite for a strategic partnership. Strategic partnerships can be contrasted with activity-based collaborations, which have limited or single purposes and focus areas and are often transactional.

- *Disciplinary v institutional partnerships*

Some partnerships are limited to activities in specific disciplines, whereas others are institutional. Stockley and De Wit elaborate that ‘[partnership agreements] are made either at the level of departments, centres or schools or at the institutional level’.²²⁵ Disciplinary compositions can be observed both in bilateral partnerships and in multilateral or network collaborations, ranging from individual collaboration between two academics supported by

²²² Stockley & De Wit op cit note 196 at 51.

²²³ Ibid, with reference to Hans van Ginkel ‘Networking and strategic alliances: Dynamic patterns of organization and cooperation’ (1997) 109 *CRE-action* 91–105.

²²⁴ Anna-Malien Sandström & Leasa Weimer *International Strategic Partnerships* (2016) 5.

²²⁵ Stockley & De Wit op cit note 196 at 46.

their departments to sustained partnerships that include the joint programmes.²²⁶ Institutional partnerships range from purely transactional, economically motivated collaborations to transformational, strategic partnerships.

- *North–South partnerships*

Another frequently used category of higher education partnerships is ‘North–South partnerships’, referring to partnerships between the Global South and the Global North.²²⁷ While it is applied in many discourses, this division lacks the necessary clarity to be used as a useful classification criterion for the purposes of this thesis. While it is clear that the ‘Global North’ does not refer to the geographical northern hemisphere but rather to the developed world, it is submitted that the term is confusing²²⁸ and that it is more useful to refer to the ‘developed’ and the ‘developing’ contexts respectively. This terminology will be used in this thesis.

Categorisations of partnerships may help to carve out specific characteristics, but it is doubtful whether it is possible or even desirable to squeeze a phenomenon as complex as partnerships into the corset of narrow classifications. For example, as Sandström and Weimer observe, different interpretations of strategic partnerships abound, and the question that arises is whether all partnerships that are considered strategic are indeed ‘strategic’.²²⁹ The more prudent approach could be to apply the groupings as mere aids to achieve a better understanding

²²⁶ See, for example, Irene Ilot, Anders Kottorp, Karen la Cour, Fenna van Nes, Hans Jonsson & Gaynor Sadlo ‘Sustaining international partnerships: The European Master of Science programme in occupational therapy, a case study’ (2013) 20 *Occupational Therapy International* 58 for an example of a disciplinary multilateral partnership focused on a specific Master’s programme in occupational therapy.

²²⁷ For example, Gilles Carbonnier & Tiina Kontinen *North–South Research Partnerships – Academia Meets Development?* (2014) European Association of Development Research and Training Institutes; Loren B Landau ‘Communities of knowledge or tyrannies of partnership: Reflections on North–South research networks and the dual imperative’ (2012) 25 *Journal of Refugee Studies* 555. See, for example, Chasi op cit note 153 for a comprehensive discussion of strategic partnerships.

²²⁸ For an in-depth discussion of this issue, refer to Fiona Beals ‘Travelling down under: Dismantling the “Global South”’ (2013) 16 *Policy & Practice: A Development Education Review* 139–149.

²²⁹ Sandström & Weimer op cit note 224 at 34.

of the partnership landscape, while instead placing individual partnerships in a matrix which is anchored on different partnership poles, resembling the various ‘categories’.

(d) Themes for international partnerships

In the discussion of the definition of internationalisation above, it was noted that the contemporary discourse on internationalisation emphasises the notion that the process is a means to achieve other ends, but not an end in itself.²³⁰ The same can be said with regard to international higher education partnerships, which are instrumental in facilitating core aspects of the internationalisation process. There may be many instances where factors such as misaligned quantitative targets in performance plans or egos of senior administrators have resulted in ‘partnerships’ being established, typically by the signing of Memoranda of Understanding which often remain inactive.

Successful higher education partnerships are characterised by parties pursuing shared goals. The motivations for partnerships fall broadly into the four categories – social and cultural, political, academic and economic – as discussed above.²³¹ Besides, a range of themes for activities pursued under the umbrella of international higher education partnerships can be identified. Understanding the principal themes of partnerships and the underlying motivations is important to contextualise power dynamics and other equality dimensions in partnerships appropriately. What then are the themes for international higher education partnerships?

- *To facilitate student and staff mobility*

Student mobility remains one of the central aspects of internationalisation.²³² Many short-term or semester student exchanges take place under the umbrella of bilateral university partnerships

²³⁰ See above chapter 2 section II(a).

²³¹ See above chapter 2 section II(d).

²³² De Wit et al op cit note 40 at 182.

or within the framework of university networks, both big and small. While mobility is often seen as an isolated issue which is dealt with in mobility agreements, the preferred approach is to embed it in institutional collaborations and regard it as a component of broader collaboration. While mobility can be pursued for various reasons, mobility partnerships are often limited in scope, and an exclusive focus on mobility in partnerships may run the risk of being elitist and unequal.

- *To facilitate collaborative transnational higher education*

One of the most significant developments in the internationalisation of higher education is the emergence of transnational higher education (TNE), which is commonly understood as ‘the movement of academic programs and providers between countries’.²³³ While the concept has developed in contradistinction to student and staff mobility, partnerships and collaboration between higher education institutions are an important facilitator; they are often used to provide degree and other academic programmes.²³⁴ Knight proposes distinguishing between two TNE categories, namely, ‘collaborative’ and ‘independent’ TNE. Collaborative TNE refers to a situation where ‘foreign HEIs have a local partner or a counterpart with whom they are cooperating in terms of the delivery of the academic program.’²³⁵ Knight distinguishes between twinning programmes, joint or double or multiple degree programmes, co-founded or co-developed institutions, and locally supported distance education programmes.²³⁶ TNE has become one of the fastest-growing aspects of internationalisation, and university partnerships are becoming an important mechanism for their implementation. It is important to note that there are vast differences concerning the role and function of the local university which partners with international higher education providers in a TNE enterprise. On the one end of the scale

²³³ Jane Knight ‘Transnational education remodeled: Toward a common TNE framework and definitions’ (2016) 20 *Journal of Studies in International Education* 34 at 36.

²³⁴ Altbach, Reisberg & Rumbley op cit note 2 at 9.

²³⁵ Knight op cit note 233 at 38.

²³⁶ Ibid at 39.

are those who are involved in joint degree programmes which are based on a jointly conceptualised curriculum and shared decision-making structures, whereas at the other end of the scale, local universities are reduced to the position of service providers for delivering the programmes of an international provider. It is apparent that there are many shades of collaboration in the collaborative category of TNE, and only some of them are so unequal that one should rather consider the institution in the country in which delivery takes place as a service provider. In twinning programmes, joint or double or multiple degree programmes which are underpinned by institutional partnerships provide the framework for implementation, and the success of the TNE programmes depends *inter alia* on the success of the underlying partnership.

- *To provide access to different research contexts and advance research*

Facilitating collaborative research ranks high amongst the motivations for international higher education partnerships, and is closely connected to academic rationales for internationalisation. While universities are by definition part of the global knowledge system, partnerships are essential catalysts which connect them to the global world of knowledge. Samoff and Carrol emphasise that they are sought after by individual scholars who want to further their research projects, whereas institutions are interested in furthering institutional research through them.²³⁷

Maringe and De Wit highlight the fact that universities seek to participate through the flow of human and knowledge capital in global knowledge processes²³⁸ and ‘bring local and distant perspectives in the co-production of new knowledge’.²³⁹ The intellectual cross-fertilisation arising out of research collaborations unlocks potential for innovation, which researchers could not achieve while working in one institution acting in isolation.

²³⁷ Samoff & Carrol op cit note 174.

²³⁸ Maringe & De Wit op cit note 7.

²³⁹ Ibid.

- *To contribute to an internationalised curriculum, and advance the quality of education in general*

Beelen observes that, to date, the literature would ‘not connect [the concepts of] partnerships and internationalisation of the curriculum’.²⁴⁰ He contends that ‘the value of networks for internationalisation of the curriculum’ would have been ‘widely acknowledged’ by writers such as Laesk, Beelen and Kaunda.²⁴¹ Beelen is of the view that the theoretical conception of ‘curricular partnerships’ as presently understood does not sufficiently engage with the ‘internationalisation of home curricula’²⁴² and advocates that collaboration for curriculum internationalisation should become a focal point of international partnerships.²⁴³ Wiley and Root emphasise that partnerships are essential for enhancing the quality of education.²⁴⁴

- *To assist universities in succeeding in a highly competitive higher education environment*

De Wit et al explain that becoming more competitive is a common goal for higher education partnerships,²⁴⁵ and often partnerships are motivated by market forces and global rankings.²⁴⁶ Samoff and Carrol also mention competitiveness.²⁴⁷ Hudzik explains that in order ‘[t]o be connected and “competitive”, higher education institutions engage global pathways of collaboration’.²⁴⁸ While increased competition results in elitism and a reluctance to share, institutions also realise that collaboration is necessary to succeed in this environment.

²⁴⁰ Jos Beelen ‘Left to their own devices: The role and skills of academics in partnerships for the future’ in Nico Jooste, Hans de Wit & Savo Heleta (eds) *Higher Education Partnerships for the Future* (2015) 47 at 54.

²⁴¹ Ibid, with reference to Betty Laesk, Jos Beelen & Loveness Kaunda ‘Internationalisation of the curriculum: International perspectives and approaches’ in H de Wit, F Hunter, L Johnson & HG van Limpd *Possible Futures: The Next 25 years of the Internationalisation of Higher Education* (2013).

²⁴² Beelen op cit note 240 at 53.

²⁴³ Ibid.

²⁴⁴ Wiley & Root op cit note 53.

²⁴⁵ De Wit et al op cit note 40.

²⁴⁶ Montgomery op cit note 154 at 82.

²⁴⁷ Samoff & Carrol op cit note 174.

²⁴⁸ Hudzik op cit note 152 at 29.

Partnerships are also perceived as a means of enhancing institutional reputation. Ford and McMullin consider engaging in strategic, international university partnerships as ‘among the most popular and growing’ reputation-building tools.²⁴⁹ Gunn and Minstrom elaborate on the example of the ‘Association of Pacific Rim Universities (APRU), Universitas 21 (U21) and Worldwide Universities Network (WUN)’ global university alliances and present evidence to demonstrate that they have been able to create a competitive advantage for their members by allowing them to perform ‘significantly better in climbing the academic league-table than non-members.’²⁵⁰

- *To facilitate institutional development and benchmarking*

Institutional development through benchmarking against perceived best practices²⁵¹ and partnering with external stakeholders is another motivation for collaboration, particularly in the Global South. According to Samoff and Carrol, the development of institutions and their infrastructure is a strong motivation for partnerships.²⁵² Partnering can benefit institutions, in that it allows them to share expensive but essential sophisticated research instrumentation and other essential resources, and facilitates articulation into postgraduate programmes in areas of respective academic strength and learning from the respective partner’s best practices in the areas where one partner to the relationship has gained specific institutional experience. In the research context, Hudzik explains that ‘the rising cost of cutting-edge research’ necessitates institutional collaboration.²⁵³ Koehn and Obamba expressly remark that ‘transnational higher

²⁴⁹ Carolyn Ford & Julie McMullin ‘Internationalisation of higher education institutions: Challenges and opportunities’ in James E Côté & Andy Furlong (eds) *Routledge Handbook of the Sociology of Higher Education* (2016); Maringe & De Wit op cit note 7.

²⁵⁰ Gunn & Minstrom op cit note 153 at 180–181.

²⁵¹ For example, Stockley & De Wit op cit note 196 at 150 refer to the benchmarking of various activities (research, internationalisation, libraries etc.) as a partnership activity.

²⁵² Samoff & Carrol op cit note 174.

²⁵³ Hudzik op cit note 152 at 29.

education partnerships bring “additionality” to human-capability and institutional-capacity building initiatives’.²⁵⁴

Especially for smaller universities in developing contexts, the sharing of resources²⁵⁵ affords the opportunity to increase global competitiveness and provide their academics and research students with access to cutting-edge research instrumentation. Building on the complementarity of institutions, it is possible to develop mutually beneficial partnerships that connect universities with different areas of strength and allow them to mutually assist each other in the areas in which they require development. This understanding has, for example, resulted in increasing South–South partnerships in higher education.

At times, very specific approaches are taken to achieve institutional development through partnerships. For example, the American University in Dubai partnered with universities in Canada to establish and maintain high international standards, allowing its students to articulate into Canadian programmes and enhancing the young institution’s attractiveness.²⁵⁶

- *To develop capacity*

Wiley and Root observe that international academic partnerships ‘if developed with mutuality, transparency, and reciprocity, are essential to building and enhancing the capacity of scholars in both US and foreign partner institutions to understand each other and teach more intelligently about each other and our world’.²⁵⁷ As in many other spheres, developed countries’ support for higher education in developing world regions is often structured through partnerships. Examples include the European Union’s ‘Capacity Building in the Field of Higher Education’

²⁵⁴ Koehn & Obamba op cit note 152 at 23.

²⁵⁵ Maringe & De Wit op cit note 7.

²⁵⁶ Muhammed Kabir, John Newark & Rita Yunnes ‘International partnerships as a core strategy for small private universities in the MENA region: Lessons from Dubai’ (2016) 28 *Journal of Business and Behavioural Sciences* 79 at 86–87.

²⁵⁷ Wiley & Root op cit note 53.

projects under the Erasmus Plus programme's aegis,²⁵⁸ and the United Kingdom's Department for International Development (DFID) Development Partnerships in Higher Education (DeIPHE) programme.²⁵⁹

- *To facilitate sustainable development*

Internationalisation takes place against the background of increasing global asymmetries in higher education, and societies at large.²⁶⁰ Partnerships are regarded as a critical facilitator for development; in the last decades, the focus has shifted from development assistance to a partnership approach. The critical nexus between development and higher education²⁶¹ manifests itself in higher education partnerships, which are often used to catalyse developmental activities. Universities in developing contexts are considered critical stakeholders in broader partnerships for development, but sometimes bilateral university partnerships or small networks between higher education institutions are forged to facilitate university outreach projects as part of their community engagement activities. Higher education institutions in the developed world engage in developmental activities; their motivations include institutional image-building and marketing,²⁶² as well as providing their own students with exposure and experience in developing contexts, whereas community engagement is part of the core business of many universities in the developing world.²⁶³ Besides, some partnerships between universities in developing and developed contexts are driven by political rationales, such as contributing to regional integration.²⁶⁴ A general development from a donor–recipient model to a genuine partnership approach may be taking place both in higher education

²⁵⁸ European Commission *Erasmus Plus Programme Guide* (2016) 148.

²⁵⁹ British Council *Bridging the Gap: Enabling Effective UK–Africa University Partnerships* (2015) 2.

²⁶⁰ Koehn & Obamba *op cit* note 152.

²⁶¹ *Ibid* at 20.

²⁶² Hagenmeier *op cit* note 123.

²⁶³ For example, in South Africa, community engagement is regarded as an integral part of the core business of universities, together with teaching and learning, and research.

²⁶⁴ Yu Doce *op cit* note 153 at 120.

enhancement as well as in general development efforts for the benefit of disadvantaged world regions at large.

The above themes do not constitute an exhaustive catalogue of possible partnership activities. Rather, they are an indication of the central themes of contemporary university partnerships. Every partnership is unique and it is essential that stakeholders define the common purpose of their partnerships. No collaborative effort can flourish in the absence of clear vision and a shared understanding of the common purpose which the partners are pursuing.

(e) Foundational principles of international higher education partnerships

Presently, there appears to be little consensus on the foundational principles of higher education partnerships. While there are some indications of a global consensus that partnerships should be fair²⁶⁵ and based on ethical principles and equality,²⁶⁶ there is a diversity of approaches towards partnership practice. The foundational principles relating to international higher education partnerships have been analysed by some academics.²⁶⁷ However, the exact canon of those principles must still be defined. Publications on higher education partnerships canvass objectives, best practices and general principles relating to higher education partnerships,²⁶⁸ but

²⁶⁵ Global Dialogue hosted by the International Education Association of South Africa op cit note 9 at 2; International Association of Universities op cit note 130.

²⁶⁶ Global Dialogue hosted by the International Education Association of South Africa op cit note 9 at 2.

²⁶⁷ Stockley & De Wit op cit note 196197 at 54; Jane Philpott 'Applying themes from research ethics to international education partnerships' (2010) 12 *Virtual Mentor* 171; Sutton (2015) op cit note 152 at 49; Helms op cit note 152; Koehn & Obamba op cit note 152.

²⁶⁸ Buck & Obst op cit note 152; Susan Buck Sutton 'On the ground overseas: How the international engagement of US institutions prepares students for a global future' in *Internationalisation of U.S. Education in the 21st Century: The Future of International and Foreign Language Studies* (2014); Carbonnier & Kontinen op cit note 227; David Wiley 'Best Practises for International Partnerships with Higher Education Institutions in Africa' (African Studies Centre, Michigan State University, 2006) available at <http://africa.isp.msu.edu/faculty/bestpractises.htm> (accessed 13 October 2015); Kenneth Tolo, Frank Method, Peter French, Jill Rhodes & Christine Allison *Best Practices for USAID: International Higher Education Institutional Partnerships: Asia and the Middle East Regions* vols 1 and 2 (2011).

have not yet systematically extrapolated a commonly accepted enumeration of foundational partnership principles. In an earlier publication²⁶⁹ the researcher referred to a–

useful high-level summary of standards of good practice for partnerships, which provides an overview of the existing documents relating to principles for higher education partnerships. It identifies four themes: transparency and accountability, faculty and staff engagement, quality assurance and strategic planning and the role of institutional leadership. These themes relate to programme administration and issues such as cultural awareness, access and equity, institutional and human capacity building, ethical dilemmas and negotiated space related to cultural and contextual issues.²⁷⁰

Various universities have developed partnership guidelines; for example, the University of Michigan has developed a set of guidelines for partnerships in Africa, which are the result of an extensive engagement process.²⁷¹ Stockley and De Wit²⁷² explain a number of success factors for partnerships, which relate to foundational partnership principles.²⁷³ Below, an attempt will first be made to dissect the general foundational principles which have been identified in the relevant literature. After that, partnership processes relating to the foundational, operational and final phases of partnerships will be considered. The discussion of equality, which is a critical foundational principle, will be reserved for the last section of this chapter.

²⁶⁹ Hagenmeier op cit note 9.

²⁷⁰ Ibid with reference to Helms op cit note 152. Helms extrapolated the information from the following sources: Council of Europe *Code of Good Practice in the Provision of Transnational Education* (2001) Adopted by the Lisbon Recognition Convention Committee at its second meeting, Rīga; Forum on Education Abroad *Standards of Good Practice for Education Abroad* (2011); International Association of Universities *Sharing Quality Higher Education Across Borders: A Statement on Behalf of Higher Education Institutions Worldwide* (2005); New England Association of Schools and Colleges *Principles of Good Practice in Overseas International Education Programs for Non-U.S. Nationals* (2003); Organisation for Economic Co-operation and Development *Guidelines for Quality Provision in Cross-border Higher Education* (2005).

²⁷¹ African Studies Center Michigan State University Guidelines of Best Practices for Partnerships between Tertiary Institutions in Africa and their Foreign Partners (1999).

²⁷² Stockley & De Wit op cit note 196, building on the earlier work of Richard Prichard ‘Networking for research and development: Necessity or new religion’ (1996) 10 *Inter-American Journal of University Management* 5–10.

²⁷³ See the discussion of partnership success factors below at section III(f).

- *Mutual benefit or mutuality*

Central to partnerships is the principle of mutual benefit.²⁷⁴ This principle expresses that in genuine partnerships, there must be a sharing of the benefits derived from jointly pursuing the common purpose. In the legal sense, this principle relates to reciprocity and encapsulates the principle of contract law, *do ut des* (I give that you may give).²⁷⁵ Accordingly, the concept has been applied to the higher education partnership discourse to mean that the ‘arrangement is driven by “studied self-interest”’.²⁷⁶ It is submitted that such an understanding would be insufficient for higher education partnerships. In the discourse on international academic partnerships, Leng refers to ‘mutuality’, which he unbundles with reference to the structural theory of imperialism as containing ‘four aspects’:

(a) Equity, meaning the aims and forms of cooperative programs are reached through mutual agreement; (b) Autonomy, meaning participants from both sides show respect for and are willing to learn about each other’s culture, knowledge and belief systems; (c) Solidarity, meaning collaborative programs encourage strong links and interconnectedness among participants in the developing world; and (d) Participation, meaning faculty, researchers and administrators in the developing world participate fully in all activities and contribute to knowledge production on an equal basis with those in the developed world.²⁷⁷

While Leng’s understanding may be too idealistic, given the dichotomy between competition and cooperation that higher education internationalisation is experiencing, aspects of mutuality are nevertheless critical for understanding higher education partnerships. Wiley and Root²⁷⁸ and Brinkerhoff²⁷⁹ also consider mutuality to be a central element of partnerships; Brinkerhoff considers mutual dependence of the partners and equality in decision-making as

²⁷⁴ Samoff & Carrol op cit note 174 at 150; Hudzik op cit note 152 at 24; Kuder op cit note 221 at XI.

²⁷⁵ Black’s online law dictionary.

²⁷⁶ Kinser & Green op cit note 180 at 16.

²⁷⁷ Leng op cit note 169 at 11.

²⁷⁸ Wiley & Root op cit note 53.

²⁷⁹ Jennifer M Brinkerhoff ‘Government–nonprofit partnership: A defining framework’ (2002) 22 *Public Administration* 19.

central aspects.²⁸⁰ The aspects of mutuality carved out by Leng and Brinkerhoff are important for incorporating academic values in higher education partnerships and may be best infused in their theoretical foundation as an aspect of equal partnership. Mwangi²⁸¹ also has recourse to the theoretical framework of mutuality for higher education partnerships. Referring to the earlier work of Galtung,²⁸² he argues that ‘mutuality is comprised of four structurally oriented goals of international engagement and development: equity, autonomy, solidarity and participation’.²⁸³

- *Complementarity*

One of the central tenets of successful partnerships is complementarity.²⁸⁴ Koehn and Obamba explain, with reference to Beerkens,²⁸⁵ that ‘[p]artnerships of varying stripes are driven by the appeal of complementarity and synergy for the mutual benefit of all participating parties’.²⁸⁶ The principle of complementarity refers to partners having different strengths or qualities which complement each other. It also recognises that partners can make different contributions to the partnership which, as some may argue, should however be equal in value.²⁸⁷ For partnerships to be successful, not only communalities between partners, which are often emphasised in the literature, are required, but complementarity is also a critical success factor.²⁸⁸

²⁸⁰ Ibid at 22–23.

²⁸¹ Mwangi op cit note 152.

²⁸² Galtung, Johan ‘The true worlds: A transnational perspective’ (1980) in Johan Galtung *Peace: Research, Education, Action* (New York: Free Press, 1980).

²⁸³ Mwangi op cit note 152 at 36.

²⁸⁴ Kinser & Green op cit note 180 at 16.

²⁸⁵ HJ Beerkens ‘Global Opportunities and Institutional Embeddedness’ (PhD dissertation, University of Twente, The Netherlands, 2004) at 63.

²⁸⁶ Peter H Koehn & Milton Odhiambo Obamba ‘Transnational research and development partnerships in higher education: Global perspectives’ in Darla K Deardorff, Hans de Wit, John Heyl & Tony Adams (eds) *The SAGE Handbook of International Higher Education* (2012) 359–378 at 375.

²⁸⁷ See for example Hudzik op cit note 152, whose concept of a ‘metric of exchange is discussed in more detail in this chapter at section IV(f).

²⁸⁸ Stockley & De Wit op cit note 196.

- *Transparency and accountability*

Transparency and accountability of partners and partnership processes are critical for the success of partnerships. Helms understands transparency as ‘accessibility of clear, accurate, and timely information across all levels of global engagement for all stakeholders’²⁸⁹ and regards it as a ‘precondition for accountability’.²⁹⁰ He also states that the partners must manage information effectively, make it available to partners, and not withhold any critical facts. The availability of written foundational documents, such as Memoranda of Understanding, can contribute to transparency in partnerships. An important aspect of transparency is that partners must provide comprehensive information even before the relationship is established. Philpott notes that ‘[e]thical collaborations for medical education must similarly respect the principles that drive the notion of informed consent, beginning with the provision of information’.²⁹¹

Accountability goes further and emphasises that partners must take responsibility for their actions. The concept includes compliance with the relevant legal norms and sector standards, proper financial standards and adherence to good governance practices. It should be understood in the widest sense and include the notion that partners take responsibility for the foreseen and unforeseen effects of their actions on the partner. Blagescu and Young emphasise in the context of North–South partnerships that accountability is especially important because of skewed power relations.²⁹² They argue that accountability is required at three levels in partnerships, namely, ‘accountability of partners to their own stakeholders; accountability of partners to each other; and accountability of the partnership to its stakeholders’.²⁹³ Partnerships between universities with divergent strengths and resources would require a heightened level of

²⁸⁹ Helms op cit note 152 at 8.

²⁹⁰ Ibid.

²⁹¹ Philpott op cit note 267 at 172.

²⁹² Monica Blagescu & John Young Partnerships and Accountability: Current Thinking and Approaches Among Agencies Supporting Civil Society Organisations (2005).

²⁹³ Ibid at 5.

accountability because of the possible pitfalls resulting from the asymmetrical availability of resources and the risk of the dominance of one partner over the other. Through full disclosure and honesty, trust capital is developed, which will also assist the partnership when difficulties have to be overcome.

- *Academic freedom*

Arguably, academic freedom is one of the central tenets of higher education. It is challenging to define the concept, and confusion remains over its exact scope.²⁹⁴ Nevertheless, some central tenets can be deduced from the diverse discourse on the issue. The medieval roots of academic freedom lie in the freedom of the individual academic to teach without external control in the respective area of expertise, and the freedom of the student to learn. Later, academic freedom started to encompass research as well.²⁹⁵

However, it is important to note that there have always been limitations to the concept. More controversial aspects are the freedom of academic expression outside the narrow university context, and whether universities should also be viewed as bearers of the right. Some of the world's Constitutions protect aspects of academic freedom,²⁹⁶ but it is not expressly entrenched as a human right in the canon of core universal human codifications. While the view that it should be regarded as a human right has been put forward, this is not universally accepted. Helms observes that different perceptions of academic freedom can result in partnership

²⁹⁴ Philip Altbach 'Academic freedom: International realities and challenges' (2001) 41 *Higher Education* 205 at 207.

²⁹⁵ Ibid.

²⁹⁶ Examples of national fundamental rights codifications which protect academic freedom include the Bill of Rights entrenched in the South African Constitution (section 16(1) 'Everyone has the right to freedom of expression, which includes– ... (d) academic freedom and freedom of research') and the German 'Basic Rights' (*Grundrechte*) entrenched in the German Basic Law (*Grundgesetz*) which provides in Article 5(3) that 'Arts and sciences, research and teaching shall be free. The freedom of teaching shall not release any person from allegiance to the constitution.'

tensions,²⁹⁷ whereas Mestenhauser views academic freedom as a barrier to internationalisation²⁹⁸ and warns:

[W]ith the autonomy they enjoy historically, who is to tell them (academics) what academic and research interests to pursue, which ones are really important and significant or esoteric, how to incorporate new global knowledge into their lectures, how to adjust the style of teaching or the content of instruction, how to prepare themselves for an academic career, to begin with, and whether internationalisation of the curriculum is infringing on academic freedom.²⁹⁹

While Mestenhauser is correct in observing a potential conflict between academic freedom and internationalisation, it is submitted that this conflict is not insurmountable. Internationalisation processes should be structured to allow academics to pursue scientific interests of their own choice and decide which discourse to participate in, whilst rigorously preserving freedom of opinion. Academics are arguably one of the most challenging species to manage and integrate into formalised structures, such as international university partnerships. A prerequisite for their support of partnerships is that one of the most valued foundational principles in the academic world, academic freedom, is respected and allowed to flourish in the partnership paradigm. In the partnership context, academic freedom should include the freedom to choose with whom to collaborate, although there are justifiable limitations.

- *Promotion of the common good*

The raison d'être for universities is generally teaching and learning, research and community engagement. Their academic project, which is implemented for the benefit of society at large, is intertwined with the human rights to education, freedom of expression and, arguably, development. While the commercialisation of higher education has become a reality, this cannot

²⁹⁷ Helms op cit note 152.

²⁹⁸ Josef A Mestenhauser 'Missing in action: Leadership for international and global education for the twenty-first century' in Leland C Barrows *Internationalisation of Higher Education: An Institutional Perspective* (2000) 23 at 33.

²⁹⁹ Ibid.

detract from higher education being a common good, which is central to the progress of humanity. The social responsibility of the higher education sector has been widely acknowledged; it bears not only a responsibility for educating the individual but, as observed in the Final Document of the 2009 UNESCO World Conference on Higher Education, ‘also to provide future generations with the skills and knowledge necessary to address global challenges such as poverty, conflict and climate change’.³⁰⁰ The role of higher education as a driver for societal advancement is reflected in the new definition of internationalisation proposed by De Wit et al.³⁰¹ It is increasingly accepted in the internationalisation discourse,³⁰² for example, through the notion of internationalisation in higher education for society.³⁰³ Higher education partnerships, which at their core are facilitating the interaction of universities to advance higher education and, specifically, the process of internationalisation, should be designed to advance the common good, and should be committed to promoting the quality of education while advancing the greater societal good.

(f) Partnership processes

In spite of the increasing range of general partnership literature, little uniformity can be observed in the models utilised to describe their underlying dynamics. Helms correctly notes that the ‘ever-growing range’ of higher education partnerships would not allow a ‘one-size-fits-all’ approach.³⁰⁴ Amey, Eddy and Ozaki have developed a useful model to explain the dynamics underlying partnerships.³⁰⁵ In their multi-stage partnership model, they distinguish three phases in the lifecycle of partnerships. The first stage ‘focuses on antecedents, motivation for

³⁰⁰ United Nations Educational, Scientific and Cultural Organization (UNESCO) *Final Document of the Paris World Conference* (2009) at 19–20.

³⁰¹ De Wit et al op cit note 40.

³⁰² See chapter 2 section II(b).

³⁰³ Uwe Brandenburg ‘Internationalisation in higher education for society–IHES in the times of corona’ (2020) 8 *Sociální pedagogika | Social Education* 11–24.

³⁰⁴ Helms op cit note 152 at 3.

³⁰⁵ Marilyn J Amey, Pamela L Eddy, C Casey Ozaki ‘Demands for partnership and collaboration in higher education: A model’ (2007) 139 *New Directions for Community Colleges* 5.

involvement and the context of the partnerships'.³⁰⁶ The second stage focuses on the partnership itself, while the final stage concerns 'issues of sustainability and termination'.³⁰⁷ This useful framework will be used to structure the discussion of partnership processes that follows.

- *Formation stage*

Amey, Eddy and Ozaki argue that, in the first stage, the focus would be on the champion for the partnership, who would 'often have a high level of social capital to impart'.³⁰⁸ A champion is a person with a special commitment to the partnership, ready to procure funding and work outside their own core field of expertise.³⁰⁹ Champions are critical for the success of partnerships, not only at the early stages of their lifecycle. Pichard emphasises that 'projects must be built around people in the institutions with relevant experience and interest to make a medium to long term commitment.'³¹⁰

Koehn and Obamba rightly discuss at length the importance of impetus for international partnerships.³¹¹ This concept is related but distinct from rationales, in that it refers to the concrete factors that motivate institutions deciding to enter into a specific partnership. They evaluate secondary data from the Association of International Education Administrators (AIEA) and the Association of Public and Land Grant Universities (APLU), which studied the perceptions of American senior international officers relating to transnational research activity. The findings reveal that the vast majority of respondents indicated that their own faculties are key drivers for transnational research and development projects, whereas home 'high-level campus administrators' were ranked second, and only a minority referred to overseas partners

³⁰⁶ Marilyn J Amey 'Administrative perspectives on international partnerships' (2007) 139 *New Directions for Community Colleges* 57.

³⁰⁷ Ibid.

³⁰⁸ Amey, Eddy & Ozaki op cit note 305 at 11.

³⁰⁹ Tolo et al op cit note 268.

³¹⁰ Pichard op cit note 272, cited by Stockley & De Wit op cit note 196.

³¹¹ Koehn & Obamba op cit note 152 at 83.

as playing a key role in initiating collaborative projects.³¹² Another interesting research finding quoted by Koehn and Obamba relates to the APLU / Association of American Universities database, from which information concerning 144 collaborative projects with a connection to Africa was analysed, with the information being provided by the respective project directors. While the overwhelming majority considered faculty members to be the ‘principal initiator’ of the project, only small minorities referred to the impetus from ‘developing-country needs’ or indicated that a request from an African partner had motivated the project.³¹³ The data indicates that the principal impetus for many partnerships between the US and Africa is US-based faculty and administration, with developing-country partners playing a minor role in project initiation.

Many commentators emphasise the importance of a strategic approach to partnerships. In other words, universities should have a clear vision for their collaborations, which would include the purpose of working with partners, and the strategic priorities in terms of the partnership’s geographic distribution and organisation with which they should be established. The argument that institutions should consider partnerships in the light of their overall strategic goals is often advanced.³¹⁴ Importance is assigned to the execution of a thorough needs analysis prior to entering into partnerships.³¹⁵ A shared vision from the beginning and a well-understood common purpose are essential for the success of partnerships. Carbonnier and Kontinen emphasise the importance of a ‘joint vision from the start’ for successful North–South research collaborations.³¹⁶ For the long-term success of partnerships, it is essential that partners share,

³¹² Ibid at 84. According to the survey they cite, 90 per cent of SIOs considered faculty to be instrumental drivers of international research and development partnerships, 63 per cent considered ‘high-level campus administrators’ to be key motivators, and 30 per cent indicated that ‘an overseas partner played a key role in initiating their transnational-research and development initiatives’.

³¹³ Ibid at 85: ‘Over half (54%) of the reporting project directors identified one or more faculty members (most likely including himself/herself) as the principal initiator of the project. Another 19 project directors (13%) indicated that “developing-country needs” constituted the principal impetus for the transnational collaboration.’

³¹⁴ Helms op cit note 152 at 17.

³¹⁵ Ibid at 14.

³¹⁶ Carbonnier & Kontinen op cit note 227.

from the beginning, a common purpose and a common vision. Carbonnier and Kontinen consider mutual interest in solving a problem to be essential.³¹⁷ Philpott observes that it is necessary to ‘determine whether the risks inherent in innovative educational collaboration are justified by studying how they are balanced by potential benefits’.³¹⁸ Higher education partnerships need to build on existing human capabilities and institutional capacity to be successful.³¹⁹

There is a consensus that sound foundational documents are important for partnerships.³²⁰ Typically, the ground rules for partnerships would be established in Memoranda of Understanding,³²¹ which define the broad scope of the institutional alliance and are typically not legally binding. The ‘nuts and bolts’ of collaboration would become entrenched in project agreements, often referred to as Memoranda of Agreement. These would usually be legally binding and set out the exact obligations of the parties with respect to the concrete project which is implemented under the umbrella of the institutional partnership.

- *Operational phase*

With regard to the second phase, which refers to the operation of partnerships once established, some common dominant factors can be extracted from the discourse. Central to the failure or success of partnerships is the issue of communication. Successful international partnerships require excellent, open and transparent communication channels.³²² Face-to-face visits play an important role³²³ and trust, as well as transparency, are important prerequisites.³²⁴

³¹⁷ Ibid at 17.

³¹⁸ Philpott op cit note 267 at 173.

³¹⁹ Koehn & Obamba op cit note 152.

³²⁰ Helms op cit note 152 at 8.

³²¹ Hudzik op cit note 152 at 34.

³²² See also Stockley & De Wit op cit note 196 with reference to Prichard op cit note 234 for a discussion of communication as a critical success factor for partnerships.

³²³ Carbonnier & Kontinen op cit note 227 at 13.

³²⁴ Ibid.

The need for solid faculty support, especially for partnerships which have been initiated by the higher echelons of university leadership, has been identified by Gieser from a case study of a partnership between two universities in developed contexts which had been catalysed by the universities' presidents, who had a personal friendship.³²⁵ The analysis revealed a dichotomy between the perceptions of senior administrators and those in the lower ranks.³²⁶ While appreciation for the collaboration prevailed amongst those holding higher positions, faculty involved in the partnership doubted its value.³²⁷ The research recommends that 'senior administrators may need to tone down international ambitions that do not have a solid cadre of faculty in support'.³²⁸ A different perspective for considering this paradigm could be for senior administrators to observe where, for example, academics are interested in developing partnerships through research collaborations or other personal bonds, and then supporting those efforts, and developing them at the institutional level.

For partnerships to work optimally, sound steering mechanisms are required. Regular direct communication between champions and core stakeholders should be supplemented in larger institutional collaborations by formalised steering committees which meet regularly. The partners must adhere to ethical standards and resolve ethical dilemmas which may arise in the course of the joint work.³²⁹ Even in higher education partnerships which implement best practices, it will not always be possible to avoid disputes. Managing and overcoming them whilst preserving the relationship is essential for developing sustainable partnerships, and various authors allude the importance of explicit dispute resolution mechanisms.³³⁰

³²⁵ Gieser op cit note 153.

³²⁶ Ibid at 70.

³²⁷ Ibid at 73.

³²⁸ Ibid at 75.

³²⁹ Helms op cit note 152 at 32.

³³⁰ For example, Carbonnier & Kontinen op cit note 227.

Equally, adherence to applicable quality standards is essential. With universities from different nations embedded in differing local cultural contexts and with diverging institutional cultures collaborating, there is potential for a plethora of conflicts. To prevent conflict from arising, actors in international partnerships require intercultural sensitivity³³¹ and institutions must develop respect for the different ways of the respective partner. Helms proposes the concept of a ‘negotiated space’,³³² in other words, that the partners define for themselves how they deal with sensitive matters, eg which process and substantive rules they will apply to ethical research approvals. In this regard, the best approach may be to demand that the minimum standards in the contexts of all partners involved in the collaboration are met. This corresponds with the principle established in international research ethics ‘that appropriate standards of care should be observed regardless of where the research takes place’, with the outcome that ‘the standard of education should not depend on where the teaching occurs’.³³³

- *Continued sustainability*

The third stage of partnerships is concerned with their sustainability as institutional partnerships or their termination. Key to the sustained activity of partnerships beyond the exodus of initial champions is their institutionalisation.³³⁴ Partnerships that observe relevant foundational principles, including being mutually beneficial, transparent and accountable; respecting academic freedom; promoting education, research and development; and incorporating sound processes, have the potential to be sustained in the long term. They can be expected to continue to further the common purpose pursued by the parties, which will often, but not out of necessity, relate to the rationales outlined above. Well-functioning partnerships have the potential to

³³¹ Ibid.

³³² Helms op cit note 152 at 32.

³³³ Philpott op cit note 267 at 175.

³³⁴ Amey op cit note 308 at 58.

become fully institutionalised and to continue long after the initial champions have left them, and external funding has been exhausted.

- *Critical success factors for partnerships*

The critical success factors for networking which have been extrapolated by Stockley and De Wit³³⁵ are of seminal importance for successful partnerships. They are relevant at all stages of the partnership lifecycle. Some have already been canvassed in the above discussion of partnership principles and processes, including partner complementarity, the role of champions, and communication. In addition, funding and the availability of sufficient resources, ‘formulation of clear goals for the short, mid and long term’,³³⁶ as well as long-term commitment are important prerequisites for the success of partnerships.

IV. Equality in higher education partnerships

(a) Equality as a principle underlying higher education partnerships

It has become a widespread practice to cite equality as one of the core principles underlying higher education partnerships.³³⁷ For example, Sutton suggests that it should be considered a principle of good practice to regard linkages as ‘alliances amongst equals’ and notes that partnerships should be understood as ‘alliances among coprincipals, with shared rights, responsibilities, and commitment.’³³⁸ She argues that contributions should ‘address, rather than perpetuate ... inequalities of resources and imbalances in exchanges’.³³⁹ Carbonnier and Kontinen observe a consensual move towards more balanced partnerships, but caution that

³³⁵ See Hagenmeier op cit note 9 at 42–43. In this publication, the researcher provided a brief summary of the ‘realisation of equality in partnerships’.

³³⁶ Ibid.

³³⁷ For example, Global Dialogue hosted by the International Education Association of South Africa op cit note 9.

³³⁸ Sutton (2015) op cit note 152 at 50.

³³⁹ Ibid.

actual practice would ‘not live up to the stated ambitions’.³⁴⁰ They argue that ‘notions such as the North and the South should be revisited, if not abandoned altogether’.³⁴¹ According to them, recognising the existing power relations may be the first step towards transformational change. Oleksiyenko observes that ‘equilibration evolves and becomes crucial to sustaining multi-stakeholder engagement in long-term scientific collaboration’.³⁴² Morosini, Corte and Guilherme contend that ‘networking ... should be based on sharing, solidarity and equality’.³⁴³ A slightly different understanding is evident in Anderson and Maharasoa’s contention that equal recognition or status should be a binding assumption for academic partnerships.³⁴⁴

Many scholars observe that challenges of inequality plague international higher education partnerships. De Wit identifies inequality as a challenge to partnerships.³⁴⁵ Leng argues that,

[d]espite the changing forms and discourse of international academic relations over the last twenty years, the inequality of power relationships in inter-university collaborative projects between the North and the South remains an issue in many parts of the world.³⁴⁶

Indeed, the higher education landscape mirrors inequalities between the developed and the developing world, and partnerships are no exception to this.³⁴⁷ Jooste advances the view that ‘[i]nternational partnerships should also play the role of equaliser in a world that is becoming more unequal than in the past’,³⁴⁸ and it is submitted that innovatively structured higher education partnerships can contribute to overcoming global inequalities in higher education.

³⁴⁰ Carbonnier & Kontinen op cit note 227 at 16.

³⁴¹ Ibid at 15.

³⁴² Oleksiyenko op cit note 153 at 202.

³⁴³ Costa M Morosini, Marilene GD Corte & Alexander Guilherme ‘Internationalisation of higher education: A perspective from the Great South’ (2017) 8 *Creative Education* 95 at 96.

³⁴⁴ Anderson & Maharasoa op cit note 152.

³⁴⁵ De Wit op cit note 8.

³⁴⁶ Leng op cit note 169 at 27.

³⁴⁷ Koehn & Obamba op cit note 152.

³⁴⁸ Jooste op cit note 109 at 18.

However, the concern is that the prevailing asymmetries, particularly in partnerships between the developing and the developed world, which are often termed ‘North–South partnerships’, can rather have the opposite effect and result in a perpetuation and intensification of existing inequalities. Kassie observes that an ‘unbalance of power relations is apparent in North-South partnerships, where the northern partner’s influence in decision-making processes is likely to be weightier’.³⁴⁹ Egron-Polak and Marmolejo remark that it is ‘common for institutions in more developed countries to impose their own scope, standards and protocols to formalize partnerships, leaving “lower-status” institutions with limited room for manoeuvring’.³⁵⁰

The underlying inequalities in terms of the knowledge base and availability of resources result, according to Koehn and Obamba, in a situation where—

inequalities between Northern and Southern researchers in the field of international scientific cooperation both generate and reproduce structural power and epistemological hegemonies that militate against the construction of symmetric partnerships.³⁵¹

Referring to ‘international research partnerships’, Landau argues that they ‘enact and expose the inequalities, structural constraints and historically conditioned power relations implicit in the production of knowledge’.³⁵² Philpott states that ‘[i]nternational collaborations for education risk being imperialistic or driven by supremacist ideologies and similarly accused of exploitation’;³⁵³ in his view, this risk is caused by ‘the possibility that, in some circumstances, international teachers may have more to gain than communities taught’.³⁵⁴ Oleksiyyenko notes

³⁴⁹ Kitaw Cassie op cit note 153.

³⁵⁰ Eva Egron-Polak & Francisco Marmolejo ‘Higher education internationalisation: Adjusting to new landscapes’ in Hans de Wit, Jocelyne Gacel-Avila, Elspeth Jones & Nico Jooste (eds) *The Globalization of Internationalization: Emerging Voices and Perspective* (2017) 7–17 at 12.

³⁵¹ Koehn & Obamba op cit note 152 at 74.

³⁵² Loren B Landau op cit note 227 at 556.

³⁵³ Philpott op cit note 267.

³⁵⁴ Ibid.

that '[a]symmetries in priorities, values and accountability norms lead to heavy workloads, outcome failures and tense stakeholder relations'.³⁵⁵

Arguing from a business point of view, some commentators have, especially in the discourse concerning transnational higher education, gone so far as to resort to the conceptual framework of 'transnational academic capitalism'.³⁵⁶ In the context of partnerships, this would translate into a paradigm where the unbalanced flow of intellectual capital shapes partnership transactions, resulting in a situation where inequities and inequalities are perpetuated rather than remedied through partnerships. Appropriately, Maringe and De Wit warn that flows of intellectual capital may, in asymmetrical partnerships, reinforce inequalities and inequities.³⁵⁷

Equality is regularly cited as a fundamental principle relating to higher education partnerships.³⁵⁸ A scientific discourse on the concept in higher education partnerships has commenced.³⁵⁹ However, the earlier assessment by the researcher that 'specific literature on equality in higher education partnerships remains scarce' and that 'the academic discourse, the doctrine is not yet clearly defined and the academic discourse on developing suitable concepts and strategies to achieve it is in its infancy'³⁶⁰ remains unchanged. This thesis addresses this gap. As stated in an earlier publication, the researcher considers it 'necessary to develop a theoretically sound conception of equality in relationships of divergent strength'.³⁶¹

At the outset, it is important to reflect on whether there should indeed be one single definition for the principle of equality in higher education partnerships. While equality is a firmly embraced ideal in many democratic traditions and entrenched as a human right in various

³⁵⁵ Oleksiyenko op cit note 153.

³⁵⁶ Caruana op cit note 49.

³⁵⁷ Maringe & De Wit op cit note 7.

³⁵⁸ Hagenmeier op cit note 9.

³⁵⁹ Maringe & De Wit op cit note 7; Hudzik op cit note 152; Hagenmeier op cit note 9.

³⁶⁰ Hagenmeier op cit note 9.

³⁶¹ Ibid at 45.

instruments,³⁶² there is no unanimity on either its meaning or the means by which it should be pursued. Ngwena appropriately refers to the subjective nature of equality.³⁶³ Boulding remarks that the ‘pursuit [of equality] remains as elusive as the pursuit of happiness, and our different interpretations of what we mean by equality are even threatening to destroy us’.³⁶⁴ In ‘The pursuit of equality’ he unpacks different ways to describe and measure inequality, effectively demonstrating that it is not possible to define one measure which best describes inequality.³⁶⁵ Underlying the challenge would be that every distribution is a *gestalt*,³⁶⁶ which would be impossible to appropriately capture through descriptive moments.³⁶⁷

Another concern is whether equality can conceptually be applicable to universities. Equality is a human right, and, generally, human rights have been crafted to protect individuals. In some countries, such as South Africa and Germany, it has been accepted that fundamental rights can also be invoked by juristic persons. Section 93(3) of the South African Constitution provides that ‘[a] juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person’.³⁶⁸ Article 19(3) of the German *Grundgesetz* stipulates that ‘[t]he basic rights shall also apply to domestic artificial persons to the extent that the nature of such rights permits’.³⁶⁹ In any event, the philosophical principle of equality predates the human rights idea by a few millennia, and it is clear from the

³⁶² Including the 1948 Universal Declaration of Human Rights, as well as the major universal and regional human rights agreements and many national fundamental rights charters.

³⁶³ Charles G Ngwena ‘*Disabled People’ and the Search for Equality in the Workplace: An Appraisal of Equality Models for a Comparative Perspective* (2010) at 299.

³⁶⁴ Kenneth E Boulding ‘The pursuit of equality’ in James D Smith *The Personal Distribution of Income and Wealth* (1975) 9 at 12.

³⁶⁵ Ibid at 15–19, where Boulding discusses the measurement of inequality.

³⁶⁶ *Gestalt* can be defined as the ‘something that is made of many parts and yet is somehow more than or different from the combination of its parts’ (Merriam-Webster Online Dictionary <https://www.merriam-webster.com> (accessed 4 September 2021)).

³⁶⁷ Boulding op cit note 364 at 19.

³⁶⁸ Section 19(3) of the Constitution of South Africa, 2006.

³⁶⁹ Article 19(3) of the German Basic Law (*Grundgesetz*).

conception of the idea of equality that it should not be limited in application to natural persons.³⁷⁰

Jooste envisions the ‘global commons’ which he advocates³⁷¹ as a space ‘where the collaborators see themselves as equals willing to share, innovate and work towards the global good of those “in the commons”’.³⁷² A common set of values would be essential, and he posits that the African value of *ubuntu* should be part of it, an African philosophy which constitutes one of the founding values of the South African Constitution.³⁷³ He also proposes resorting to other philosophies which focus on the other, such as the Japanese philosophy *Okage Same De*.³⁷⁴ The treatment of collaborative spaces as a commons would result in ‘a more equitable and equal level of collaboration’.³⁷⁵

Higher education partnerships, especially those including partners in developed and developing contexts, continue to be frequently characterised by inequalities. Collaboration between universities in the developed world and the developing world has attracted considerable academic attention, a fact which may partially be ascribed to the influence of donor agencies on the research focus. Partnerships of this nature are considered problematic by many analysts. For example, Samoff and Carrol, who analyse higher education partnerships between institutions in the US and Africa, observe that ‘external support to higher education in Africa in general, and partnerships in particular, can and do play a prominent role in the perpetuation of dependence, and, through the dependence of higher education, in the perpetuation of poverty in Africa’.³⁷⁶ They observe that external aid is a major factor underlying

³⁷⁰ See below chapter 2 section IV(b) for a detailed discussion of the conception of equality.

³⁷¹ See above chapter 2 section II(b).

³⁷² Jooste op cit note 109 at 15

³⁷³ *Ubuntu* cannot be easily defined. See Yvonne Mokgoro ‘*Ubuntu* and the law in South Africa’ (1998) 1 *Potchefstroom Electronic Law Journal* 2. For a discussion of the principle, see chapter 6 section III(c) below.

³⁷⁴ Jooste op cit note 182 at 16. He explains its meaning as ‘I am what I am because of you’.

³⁷⁵ *Ibid* at 14.

³⁷⁶ Samoff & Carrol op cit note 174 at 72.

the interest of US institutions in partnerships with higher education institutions in Africa.³⁷⁷ In fact, such higher education partnerships are intrinsically interlinked with a partnership approach to foreign aid for developing countries, which has become popular in the last few decades.

Partnerships are perceived as a way of avoiding the donor–recipient paradigm in the development context, and are regarded by Carbonnier and Kontinen as a ‘better, more valuable relationship’.³⁷⁸ They note that ‘North-South research partnerships are located at the intersection between the scholarly and development worlds’.³⁷⁹ However, challenges related to ‘power, paternalism and trusteeship’ frequently persist. Their study exposes the fact that ‘the role of southern partners is still primarily limited to collecting data, ... and linking up with domestic policy debates’.³⁸⁰ However, it also detects a tendency for Southern partners from emerging economies to assert themselves as partners in setting the research agenda.³⁸¹ The researchers reveal the importance afforded to equality in partnerships, both normatively and to ensure the success and effectiveness of research.³⁸² Their study found that–

[e]quality is seen as conducive to ensuring contextual relevance and sustainability. From a normative perspective, equality has been stressed as a ‘core principle of sound partnership’ that should be a guiding principle when it comes to development research: ‘Without equality many northern scholars would be preaching what they don’t practice.’³⁸³

The literature reveals that institutional self-interest is a driver for institutional collaboration. Ford and McMullin observe that ‘the choice to collaborate does not mean that institutions have lost sight of the motivation to secure their own gains’.³⁸⁴ Consequently, grave

³⁷⁷ Ibid at 113.

³⁷⁸ Carbonnier & Kontinen op cit note 227 at 9.

³⁷⁹ Ibid at 7.

³⁸⁰ Ibid at 8.

³⁸¹ Ibid at 13.

³⁸² Ibid at 9.

³⁸³ Ibid.

³⁸⁴ Ford & McMullin op cit note 249 at 392.

concerns about power relations inequities and inequalities in higher education partnerships between unequal partners prevail. Maringe and De Wit posit that partnerships–

do not equitably create the international capital sought by all participating institutions. The distribution of the benefits of working together trace asymmetrical contours that favour the universities of the North more than those of the South.³⁸⁵

They refer to the ‘Matthew effect’, which describes the uneven recognition of academic work.³⁸⁶ The effect was portrayed by Merton as ‘the accruing of greater increments of recognition for particular scientific contributions to scientists of considerable repute and the withholding of such recognition from scientists who have not yet made their mark’.³⁸⁷ Maringe and De Wit apply it to higher education partnerships and suggest that ‘partnerships between unequal partners tend to exacerbate inequalities through processes that strengthen the already strong and weaken the already weak’.³⁸⁸ They report on empirical research which indicates that the value generated by collaborative North–South research is not evenly distributed, that benefits for institutional and individual reputation predominately accrue to Northern partners, that they advance the export of Northern solutions to the South, that Northern partners provide knowledge-based leadership, that Western or global North knowledge models are dominant, and that assumptions about the linguistic or communicative incompetence of Southern partners compromise the partnerships.³⁸⁹

³⁸⁵ Maringe & De Wit op cit note 7 at 416.

³⁸⁶ Ibid at 401.

³⁸⁷ Robert K Merton ‘The Matthew effect in science’ (1968) 159 *Science* 56 at 58.

³⁸⁸ Maringe & De Wit op cit note 7 at 401.

³⁸⁹ Ibid at 412–413, with reference to Felix Maringe ‘Higher Education Market’ in James D Wright (ed) *International Encyclopaedia of Social and Behavioural Sciences* 2 ed (2015).

Jowi, Knight and Schoole identify, with reference to African higher education, the ‘absence of institutional internationalisation strategies’³⁹⁰ and ‘weak research capacity’³⁹¹ as core challenges, and argue that this has resulted in inequalities as well as the ‘dominance of the Global North’³⁹² in their partnerships. They emphasise the benefits of intra-African collaboration, and argue that this should be a focus area of African universities’ internationalisation strategies.³⁹³ While the benefits of intra-African partnerships as well as those of any partnership between universities located in different parts of the developing world are indeed manifold and allow for participating higher education institutions to develop capacity through complementing each other’s respective areas of strength, an exclusively intra-developing world approach to institutional partnerships would be highly problematic. First, it may result in the partial exclusion of the developing world from the global scientific dialogue and the global knowledge society. Second, it may entrench elitism, contribute to the exclusion of higher education institutions in the developing world from partnerships and networks of the developed world, and consequently deepen the divisions in global higher education.

The effect of inequalities in international research partnerships has been illustrated by the widely noted Kenyan case *Gwer & 5 others v KEMRI & 3 others*.³⁹⁴ The case concerned alleged discrimination against six Kenyan scientists who previously worked for the Kenyan Medical Research Institute (KEMRI) under the KEMRI Wellcome Trust Research Programme. The purpose of this partnership between KEMRI and the Wellcome Trust³⁹⁵ is to ‘[c]onduct research to the highest international scientific and ethical standards on the major causes of morbidity and

³⁹⁰ James O Jowi, Jane Knight & Chika Schoole ‘Internationalisation of African higher education: Status, challenges and issues’ in Chika Schoole & Jane Knight (eds) *Internationalisation of African Higher Education* (2010) 11 at 26.

³⁹¹ Ibid at 27.

³⁹² Ibid.

³⁹³ Ibid at 28.

³⁹⁴ Dr Samson Gwer & 5 others v Kenya Medical Research Institute (KEMRI) & 3 others [2014] eKLR.

³⁹⁵ Comprehensive information about this research partnership is available at the programme website <http://www.kemri-wellcome.org/index.php/en/about> (accessed 19 January 2021).

mortality in the region in order to provide the evidence base to improve health’ and ‘[t]rain an internationally competitive cadre of Kenyan and African research leaders to ensure the long-term development of health research in Africa’.³⁹⁶ The core activities are funded by the Wellcome Trust,³⁹⁷ which is based in the United Kingdom and considers itself to be an ‘independent global charitable foundation’.³⁹⁸

The petitioners argued that they had suffered discrimination in various respects in their employment relationship relating to this international research partnership project. They had entered into agreements with the Wellcome Trust Research Laboratory, which were ‘severally extended on a short term basis’.³⁹⁹ The doctors alleged the agreements to ‘have been unclear and oppressive effectively subjecting the petitioners to unfair administrative arrangement by the Respondents’,⁴⁰⁰ and they specifically alleged that they were ‘treated with inequality on the basis of their race’.⁴⁰¹ In addition to their suffering unfair labour practices, the scientists alleged that their intellectual property had been infringed by, inter alia, the Matthew effect and that they had been excluded from opportunities by the inclusion of a criterion requiring a ‘connection to the European Economic Area (EEA)’ for the award of research fellowships, which would have resulted in virtually all funding going to white expatriates.⁴⁰²

The Kenyan Industrial Court accepted the principal submissions of the petitioners and, while recognising the role of international research funding, held that ‘racial discrimination at the work place [sic] be it perpetuated by individuals or by an institution is completely unacceptable and should not be tolerated for purposes of accessing funds, exchange

³⁹⁶ Ibid.

³⁹⁷ Ibid.

³⁹⁸ See the website of the Wellcome Trust at <https://wellcome.org/about-us> (accessed 9 February 2020).

³⁹⁹ *Gwer & 5 others v KEMRI & 3 others* supra note 394 at para 6.

⁴⁰⁰ Ibid.

⁴⁰¹ Ibid at para 7.

⁴⁰² Ibid at paras 18–19.

programmes and other benefits provided by our international benefactors’.⁴⁰³ The court found the ‘Respondent had not done enough to eliminate institutional discrimination’.⁴⁰⁴ It held that the respondent had infringed the intellectual property rights of the petitioners⁴⁰⁵ and perpetrated unfair labour practices,⁴⁰⁶ and *inter alia* awarded five million Kenyan Shillings of damages to each of the petitioners.

The judgment exposes discriminatory practices in the criteria for the award of training opportunities in terms of the partnership programme. The court should be commended for vigorously protecting the principle of non-discrimination by considering the failure of KEMRI to eliminate donor-imposed discrimination practices. The judgment attracted considerable attention in the international research community. Nordling observed that this was ‘perhaps the first time that African researchers had so strongly – and so publicly – voiced resentment of their perceived second-class status in partnerships with foreign colleagues’.⁴⁰⁷ The facts of this case arose out of a donor–beneficiary partnership for research development, which is closely akin to a higher education partnership. Inequalities in the partnership between KEMRI and the Wellcome Trust may have been the basis for the implementation of discriminatory criteria by an African research agency against Africans.

The decision has been hailed as a landmark case in which African researchers courageously ‘voiced their resentment of their perceived second-class status in partnerships’.⁴⁰⁸ Nordling suggests that many African scientists would feel that they are ‘stuck in positions such as data-collectors, with no realistic path to develop into leaders’, and views the colonial roots of modern

⁴⁰³ Ibid at para 78.

⁴⁰⁴ Ibid at para 81.

⁴⁰⁵ Ibid at para 82.

⁴⁰⁶ Ibid at para 83.

⁴⁰⁷ L Nordling ‘Africa’s fight for equality’ (2015) 521(7550) *Nature* 24.

⁴⁰⁸ Ibid.

research in Africa to be the root cause of unequal research partnerships in Africa.⁴⁰⁹ While conceding that progress has been made, she argues that more needs to be done, including a greater commitment to science being expressed by African governments.⁴¹⁰

A study conducted by Canto and Hannah⁴¹¹ analyses an attempt to develop a collaboration which would ‘replace traditional north-south relations of donor and recipient with genuine academic partnerships’.⁴¹² The British Council and the Brazilian higher education funding agency Coordenação de Aperfeiçoamento de Pessoal de Nivel Superior (CAPES) embarked on a programme in support of postgraduate education, which funded 28 individual projects.⁴¹³ A central feature of the framework was that the funding agencies would contribute roughly equal funds to the joint endeavour.⁴¹⁴ While acknowledging that it may be challenging to repeat such a project in different contexts because of limited financial resources at institutions located in developing countries, the researchers contend ‘that the British Council–CAPES agreement appears to have created a framework that is facilitating the development of collaborative partnerships that have moved beyond the traditional, symmetrical model’.⁴¹⁵ However, they also observe that the collaboration fostered projects with ‘advanced neo-colonial characteristics’.⁴¹⁶

The critical innovation in the CAPES framework is the recognition of the benefit of having both partners invested in a project, thereby creating a situation whereby both had an equity stake in the joint effort. Arguably, the effect of an equal equity stake in a project is first a sense of ownership and responsibility, and, second, that it results in both parties’ equal weight in the

⁴⁰⁹ Ibid at 25.

⁴¹⁰ Ibid.

⁴¹¹ Canto & Hannah op cit note 153 at 27. See also the discussion of this study by Hagenmeier op cit note 9.

⁴¹² Ibid at 27.

⁴¹³ Ibid at 34.

⁴¹⁴ Ibid at 27, with reference to J Hough Cost-Effectiveness Study of Higher Education Links: Report and Recommendations to ODA (1996).

⁴¹⁵ Ibid at 39.

⁴¹⁶ Ibid.

decision-making process. It is submitted that the real innovation in CAPES is the fundamental insight into the need to base a partnership between the developed and developing higher education institutions on contributions which are of equal value.

However, with regard to the determination of the contributions, the CAPES agreement failed to depart from a formal, symmetrical understanding of equality. It required the collaborators to provide similar funding to achieve the partnership's common purpose. It is remarkable that the necessary resources for this were available in the context of the CAPES framework. As appropriately observed by Canto and Hannah,⁴¹⁷ lack of financial resources is one of the reasons why this model may not be easily reproduceable in other contexts. If co-funding would need to be identical to be regarded as equal, achieving equality through such an approach would remain the exception rather than become the norm that partners from developing contexts can afford it. While equal equity stakes are an important aspect of successful partnerships, the real question which needs to be answered is what constitutes the equal co-funding necessary to obtain an equal equity share. In this regard, it is critical to consider whether a determination that takes the context, financial ability and character of the partner into account would not be more appropriate.

The presence of formal equality or symmetry, as Kohen and Obamba couch it,⁴¹⁸ admittedly makes partnering easy. One possible path to establishing equal partnerships is to simply compose partnerships of equal strength. In his case study of the Structural Genomics Institute,⁴¹⁹ Oleksiyenko aptly describes how the selection of partners with equal strength contributes to the success of a large-scale research and development collaboration. Obviously,

⁴¹⁷ Ibid.

⁴¹⁸ Koehn & Obamba op cit note 152.

⁴¹⁹ Oleksiyenko op cit note 153. The case study examines a multi-stakeholder collaboration headquartered at the Canadian University of Toronto involving universities, governments and industries in Canada, Sweden and the United Kingdom in the field of health science.

selecting partners of equal strength yields the desired outcomes in terms of achieving an equal partnership. However, it is extremely limiting for the partnership formation process. It also results in the limitation of partnerships to groups of universities of similar standing, which would severely limit the transformative, equalising contribution that university partnerships can make.

In her selected case study of North–South partnerships at a selected university in South Africa, Chasi engages extensively with strategies to achieve greater equality and mutuality.⁴²⁰ While she does not define the concept of equality, she states that–

equality is not understood here in the ‘an eye for an eye’ sense. Rather, equality is associated with what I would refer to as ‘mutuality’. In the partnership context, this means, that both partners contribute to, take responsibility for and benefit from the partnership in question.⁴²¹

Citing the positive example of the University of the Witwatersrand in South Africa, she argues that ‘universities in the South can initiate changes to facilitate and ensure greater equality and mutuality in their partnerships with institutions in the North, thus changing the power relations and balances between partners’.⁴²² This case study provides valuable insight into developing strategies to achieve equality and mutuality.

Hudzik makes an interesting suggestion which may assist in adjusting a formal approach to equality in situations where unequal higher education institutions partner.⁴²³ He proposes that ‘collaboration is possible under an exchange metric that is more asymmetric than symmetric.’⁴²⁴ In his view, ‘asymmetric collaborations require establishing a way to “equilibrate” the value of

⁴²⁰ Chasi op cit note 153.

⁴²¹ Ibid at 272.

⁴²² Ibid at 300.

⁴²³ Hudzik op cit note 152.

⁴²⁴ Ibid at 24.

different benefits (creating a metric of exchange)'.⁴²⁵ In other words, one would accept different kinds of contributions to a partnership, as long as they are equal in value, thus allowing for complementarity rather than sameness. While this is very helpful in understanding and supporting partnerships to which partners are making different kinds of contributions, 'figuring out the metric of how much A and B equals relating to how much C and D equals'⁴²⁶ does not suffice to overcome the challenge posed by the economic inequalities between different world regions. While the acceptance of different kinds of contributions to a joint endeavour is an important aspect to building collaboration between institutions in different contexts, it does not move away from a symmetrical conceptual framework whereby partners are expected to make contributions which are equal in value. The proposed approach is significant in that it moves away from a purely formal understanding of equality in partnerships. However, it does not completely overcome the application of a symmetrical partnership conception.

The analysis of the limited literature engaging with equality in higher education partnerships confirms that, to date, there has been only very limited critical engagement with the question of whether equality should be a principle underlying higher education partnerships, and, if the answer is in the affirmative, how it should be conceptualised. Equality is regularly cited as a fundamental principle in higher education partnerships, but the crucial question which conception of equality is appropriate for higher education partnerships is left open, and most of the writings simply assume, without in-depth discussion, that their own peculiar understanding of equality is of universal validity.

The absence of collaboration, or one-sided collaboration with limited involvement of partners in developing contexts, is equally problematic. Jooste observes that 'there are many

⁴²⁵ Ibid.

⁴²⁶ Ibid at 25.

faculty-led short programmes into numerous African countries with no collaboration between the local and the universities coming in from the North'.⁴²⁷ In many other instances, there is limited collaboration taking place where similar ventures are implemented. At times, southern hemisphere universities are often used as 'delivery sites' for internationalisation programmes funded by northern hemisphere donor agencies and implemented 'in partnership' with southern hemisphere institutions.

(b) Conceptions of equality

Unless equality is clearly defined, there is a great risk that the programmatic idea of making it, together with ethics, a basic, foundational value for higher education partnerships runs the risk of being a nebulous, hollow proclamation. To avoid equality remaining an elusive aspiration which defies definition,⁴²⁸ it is necessary to fully unpack the various conceptions of equality and develop a concept which is appropriate for the higher education partnership context.

Different categorisations of equality are used in different disciplinary discourses, and it is necessary to extrapolate the appropriate conception for the emerging field of internationalisation.⁴²⁹ For the relatively young academic field of internationalisation, it is important to adopt a terminology which is best suited to this essential higher education process. In this section, the different conceptions of equality will be analysed and dissected, and existing theoretical frameworks considered. Incorporating the insight of empirical research and an analysis of the South African Constitutional Court's equality jurisprudence, the thesis will in its chapter six proceed to formulate an understanding of substantive equality which may be suitable for the higher education internationalisation context in chapter four. A useful way to

⁴²⁷ Jooste op cit note 14 at 11.

⁴²⁸ See, for example, Dunia P Zongwe 'The articulation of an African philosophy of equality as a legacy of the South African Constitution' (2016) *Southern African Public Law* 32.

⁴²⁹ The equality jurisprudence of the South African Constitutional Court provides a useful basis for the discourse and will be analysed in detail in chapter 5. See also Hagenmeier op cit note 9 at 43–45.

group equality conceptions is to categorise them into those adopting a formal approach and those following a substantive understanding,⁴³⁰ with the latter comprising various sub-categories such as equality of opportunity and equality of outcomes.

- *Formal equality*

The part of the Aristotelian conception of equality which states that ‘things that are alike should be treated alike’ forms the theoretical basis for formal equality, and is based on the notions of sameness⁴³¹ and symmetry. This approach, which is also considered to be the ‘liberal conception of equality’,⁴³² and has been described as an approach of consistency⁴³³ or ‘equality of consistency’,⁴³⁴ is appropriate for situations in which equality is aspired to by organisations which are alike in their core features. It focuses on procedural fairness by emphasising treating similarly situated persons similarly⁴³⁵ and embraces the notion that ‘comparable claims ... deserve equal respect and should be given equal weight’.⁴³⁶ The formal understanding of equality has proved to be an important catalyst to counter overt discrimination (which is sometimes referred to as direct discrimination). It helped to achieve equal salaries for women and inclusive voters’ rolls encompassing all people, irrespective of gender, race or income. It is important to remember that many struggles for legal equality remain, for example, relating to the unequal treatment of women in certain countries, and formal equality arguments may have to play an important role in resolving them. Fredman appropriately acknowledges its ‘central importance in addressing blatant prejudice’ against women.⁴³⁷ Ngwena poignantly

⁴³⁰ Klaartje Wentholt ‘Formal and substantive equal treatment: The limitations and the potential of legal concept of equality’ in Tiatia Loenen & Peter Rodrigues (eds) *Non-Discrimination Law: Comparative Perspectives* (1999) 54–64.

⁴³¹ Ibid.

⁴³² Catherine Barnard & Bob Hepple ‘Substantive equality’ (2000) 59 *Cambridge Law Journal* 562.

⁴³³ Ibid.

⁴³⁴ Sandra Fredman ‘Substantive equality revisited’ 2016 *International Journal of Constitutional Law* 712 at 717.

⁴³⁵ Ngwena op cit note 363 at 312.

⁴³⁶ Thomas M Scanlon *The Diversity of Objections to Inequality* (1996).

⁴³⁷ Sandra Fredman & Beth Goldblatt *Gender Equality and Human Rights* (2015) 4.

observed that ‘formal equality stands not so much as an ineffective principle of equality but as an incomplete principle’.⁴³⁸

Arguably, the concept of formal equality also relates to the second aspect of the Aristotelian understanding of equality, namely, that ‘things that are unlike should be treated unlike in proportion to their unlikeness’.⁴³⁹ While its second characteristic may have been the theoretical foundation from which contemporary interpretations which transcend the boundaries of a purely symmetrical conception of equality emanated, it is also important to note that its wording does not depart from a symmetrical conception of equality: inequalities have to be considered strictly in proportion to their degree.

Fredman aptly remarks that ‘thinkers from Aristotle to Aquinas found no difficulty in justifying the subordination of women and slaves on the grounds of their inherent inferiority, their lack of rationality, and their need for supervision and guidance from male householders’.⁴⁴⁰ The underlying challenge is that the formal approach cannot provide an appropriate method to determine an apposite comparator. It fails to direct when the threshold is reached for two situations to be treated alike because comparators are sufficiently similar in substance, character or *gestalt*. For example, it does not explain when persons should be categorised according to one higher level category, say, as humans, or when they should be classified as members of different groups, for example, as members of a specific gender, race or religion. This logical flaw explains why Aristotle and Aquinas could support male domination whilst advocating equality. In the absence of a comparator, it is not possible to show unequal treatment. According to Fredman, ‘inconsistent treatment can only be demonstrated by

⁴³⁸ Ngwena op cit note 363 at 315.

⁴³⁹ ARISTOTLE, *Ethnica Nichomachea*, V.3 1131a–1131b (E. Ross trans. 1925), cited in Zoe Apostolopoulou *Equal Treatment of People with Disabilities in the EC: What Does ‘Equal’ Mean?* (2004).

⁴⁴⁰ Fredman op cit note 29 at 38.

finding a similarly situated person who does not share the characteristic in question’.⁴⁴¹ If one refers to a ‘universal individual’ as a comparator, one denies the rich diversity of society and this creates pressure to assimilate to one dominant standard.

Formal equality, which is based on a procedural notion of justice,⁴⁴² is a relative principle and simply demands equal treatment,⁴⁴³ but does not articulate the required quality of the treatment. In other words, the formal equality requirement is also met where there is equally bad treatment present,⁴⁴⁴ where inequalities are found they can be rectified either by ‘levelling down’ or ‘levelling up’, ie by achieving equality either by ‘removing a benefit from the better-off comparator’ or by adding a benefit for the worse-off comparator.⁴⁴⁵ Fredman discusses a number of cases in which levelling down was applied and the principle that ‘likes should be treated alike’ was ‘achieved by removing a benefit from the privileged group’.⁴⁴⁶ For example, in the US case of *Palmer v Johnson*,⁴⁴⁷ the court endorsed the closure of all swimming pools in a city as a measure to remove racial segregation. Another example of the application of the ‘levelling down’ approach is *A v Secretary of State for the Home Department*,⁴⁴⁸ where the UK House of Lords struck down anti-terrorism legislation which applied only to non-UK nationals. In response to the ruling, the UK government extended the application of the rule to UK nationals.

The approach also fails to provide a theoretical basis for the advancement of equality, for example, in circumstances where disadvantaged groups are to be empowered. Fredman and Goldblatt argue that ‘equal treatment in the context of considerable antecedent disadvantage,

⁴⁴¹ Fredman op cit note 29 at 45.

⁴⁴² Barnard & Hepple op cit note 432 at 563.

⁴⁴³ Fredman op cit note 440.

⁴⁴⁴ Fredman & Goldblatt op cit note 437.

⁴⁴⁵ Barnard & Hepple op cit note 346 at 563.

⁴⁴⁶ Fredman op cit note 434 at 717.

⁴⁴⁷ *Palmer v Johnson* 403 US 217 (1971).

⁴⁴⁸ *A v Secretary of State for the Home Department* (2004) UKHL 56 (HL).

might simply entrench that disadvantage'.⁴⁴⁹ All that formal equality can do is direct that the degree of difference should determine the extent of difference in treatment.

- *Substantive equality*

Particularly in the gender and labour discourse, the second aspect of the Aristotelian understanding of equality has been used as the foundation for the conception of substantive equality, which focuses on the differentiated treatment of fundamentally different cases.⁴⁵⁰ Goonesekere highlights that 'substantive' focuses more 'on substance and reality than merely form'.⁴⁵¹ Substantive equality refers to a broader, contextual understanding of equality which appreciates the diversity of societies and the world. Substantive equality moves from the sameness of treatment to the accommodation of difference,⁴⁵² and promotes the equal worth of all.⁴⁵³

It has been argued that substantive equality aims 'to achieve equality of results'.⁴⁵⁴ However, the concept also encompasses concepts of 'equality of opportunity' and 'diversity'.⁴⁵⁵ The notion of 'diversity' considers, as stated earlier, 'the differences between the entities involved in a relationship and establishes structures which acknowledge the diversity and achieves an equitable governance structure for their relationship'.⁴⁵⁶ Provost aptly stated that it is necessary 'to abandon the doctrine of sameness without jettisoning the idea of equality'.⁴⁵⁷

⁴⁴⁹ Fredman & Goldblatt op cit note 437 at 1.

⁴⁵⁰ Apostolopoulou op cit note 439 ch 1.

⁴⁵¹ Savitri Goonesekere 'The concept of substantive equality and gender justice in South Asia' in *United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)* at 17, available at <http://asiapacific.unwomen.org/en/digital-library/publications/2011/12/the-concept-of-substantive-equality-and-gender-justice> (accessed 25 October 2016).

⁴⁵² Sandra Fredman 'Redistribution and recognition: Reconciling inequalities' (2007) 23 *SAJHR* 214 at 216.

⁴⁵³ Ibid at 225.

⁴⁵⁴ Gwen Brodsky & Shelagh Day 'Beyond the social and economic rights debate: Substantive equality speaks to poverty' (2002) 14 *Journal of Women and the Law / Revue femmes et droit* 184 at 207.

⁴⁵⁵ Apostolopoulou op cit note 439 ch 1 (ii).

⁴⁵⁶ Hagenmeier op cit note 9 at 44.

⁴⁵⁷ René Provost 'The move to substantive equality in international humanitarian law: A rejoinder to Marco Sassòli and Yuval Shany' (2011) 93 *International Review of the Red Cross* 437 at 440.

This means that it is necessary to appreciate the differences inherent in different persons or situations in order to ensure that the outcomes or results of treatment are equal.

However, the ambit of the evolving concept is not universally agreed upon, and no homogeneous understanding of substantive equality has been determined.⁴⁵⁸ While some commentators argue that substantive equality focuses on the second part of Aristotle's understanding of equality 'which concerns the unlike treatment of cases because of their inherent unlikeness'⁴⁵⁹ and stipulate that 'things that are unlike should be treated unlike in proportion to their unlikeness',⁴⁶⁰ this argument is not entirely convincing. As stipulated above, this aspect of the Aristotelean conception of equality is essentially symmetrical and can be regarded as one of the anchors of a consistent; that is, the formal understanding of equality. However, while it is submitted that it is more appropriate to consider the second part of Aristoteles' understanding of equality an element of the formal understanding of equality, it is important to appreciate that it encapsulated the basis from which a substantive, contextual approach to equality could be developed, in that it appreciates that unlikeness must result in different treatment.

The origin of the substantive equality doctrine is often traced back to the famous US Supreme Court decision in *Brown v Board of Education*⁴⁶¹ which was handed down in 1953. This case concerned a complaint about the separation of white children and children of colour in US schools. Underlying the complaint was an application by African-American children to attend public schools, which by law were reserved for white children. The court did not apply the 'separate but equal' doctrine which prevailed in US jurisprudence at the time, but considered the provisions of this doctrine, which provided that 'equality of treatment is accorded when the

⁴⁵⁸ Ngwena op cit note 363 at 337.

⁴⁵⁹ Apostolopoulou op cit note 439 ch 1, with reference to the original text.

⁴⁶⁰ Ibid.

⁴⁶¹ *Brown v Board of Education* 347 US 483 (1954).

races are provided substantially equal facilities, even though these facilities are separate.’⁴⁶²
 The court contextually considered ‘public education and its present place in American life throughout the Nation’.⁴⁶³ Emphasising the fundamental importance of education and citing with approval the reasoning of the court of first instance, which observed that racial separation *per se* would instil a sense of inferiority in African-American children,⁴⁶⁴ the court held that ‘separate but equal’ facilities are ‘inherently unequal’ and deny children of colour ‘the equal protection of the laws’.⁴⁶⁵

The notion of substantive equality was predominantly developed in the labour and gender contexts and has been extended to assist in understanding socio-economic rights. It is also reflected in South African constitutional jurisprudence,⁴⁶⁶ which is based on the country’s progressive 1996 Constitution.⁴⁶⁷ Ngwena explains that ‘[t]he South African Constitution supports not just a progressive approach, but more significantly, a transformative substantive approach to equality which has egalitarian features’.⁴⁶⁸ The equality clause of the South African Constitution⁴⁶⁹ entrenches a substantive understanding of equality when it proclaims:

Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.⁴⁷⁰

⁴⁶² Ibid at 488.

⁴⁶³ Ibid at 482–483.

⁴⁶⁴ Ibid at 482.

⁴⁶⁵ Ibid at 483.

⁴⁶⁶ *Albertyn & Goldblatt* op cit note 15.

⁴⁶⁷ See chapter 5 below for a comprehensive discussion of the South African Constitutional Court’s substantive equality jurisprudence.

⁴⁶⁸ Ngwena op cit note 363 at 295.

⁴⁶⁹ Section 9 of the South African Constitution, 2006.

⁴⁷⁰ Section 9(2) of the South African Constitution.

This approach is deeply rooted in the system of South African constitutional law in which equality serves as both a value and a legally enforceable right.⁴⁷¹ It derives its substantive content from the underlying constitutional values, which include ‘human dignity, the achievement of equality and the advancement of human rights and freedoms’.⁴⁷² The courts must consider the foundational values when interpreting the constitutional Bill of Rights.⁴⁷³ The substantive equality jurisprudence of the South African Constitutional Court is discussed in chapter five.

In international law, the UN Committee on Social, Economic and Cultural Rights (CESCR) stated that ‘substantive equality is, in addition [to formal equality], concerned with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience’.⁴⁷⁴

Different approaches to substantive equality can be distinguished. Barnard and Hepple recognise the notions of equality of results, equality of opportunity, the understanding of equality as auxiliary to substantive rights, and a broad value-driven approach.⁴⁷⁵ Fredman differentiates between four different kinds of substantive equality: equality of results, equality of opportunity, an approach based on dignity, and her own four-dimensional understanding of substantive equality.⁴⁷⁶ The structure of the discussion below follows Fredman’s approach.

⁴⁷¹ Catherine Albertyn ‘Substantive equality and transformation in South Africa’ (2007) 23 *South African Journal on Human Rights* 253.

⁴⁷² Section 1 of the South African Constitution.

⁴⁷³ Section 38 of the South African Constitution.

⁴⁷⁴ United Nations Committee on Economic, Social and Cultural Rights (CESCR) *General Comment 16* (2005), Article 3: The Equal Right of Men and Women to the Enjoyment of all Economic, Social and Cultural U.N. Doc. E/C.12/2005/3 paras 6–7.

⁴⁷⁵ Barnard & Hepple op cit note 432.

⁴⁷⁶ Fredman op cit note 29 at 48–67.

- *Equality of results*

Equality of outcomes, which is also referred to as equality of results, has been defined predominantly in the US juristic discourse.⁴⁷⁷ This approach to equality focuses on the equal achievement of pre-determined outcomes and requires actions to be taken which will result in the fair distribution of benefits. Outcome equality emphasises the effects of actions, rather than focusing on the actions themselves. It calls for an equalisation of the consequences of interventions but does not require the interventions themselves to be the same. In simple terms, it equalises ‘where people end up rather than where and how they begin’.⁴⁷⁸ It requires actions which result in specified egalitarian outcomes. The focus is on effects or impact rather than on the purpose of actions.⁴⁷⁹ According to Baker, outcome equality requires that one ‘describe[s] the required outcomes or identif[ies] principles with which one can determine required outcomes’ and ‘justif[ies] requiring these outcomes’.⁴⁸⁰

Equality of results is intrinsically interlinked with the concept of disparate impact, which has been developed by the US Supreme Court, starting with the decision in *Griggs v Duke Power*,⁴⁸¹ and recognises that equal treatment can be discriminatory if it leads to unequal results. Fredman and Goldblatt consider it ‘an important step towards achieving substantive equality’; however, they also characterise it as an ‘incomplete version of equality’ and criticise it for allowing deviations for business reasons or public policy.⁴⁸² The US legal doctrines of reasonable accommodation or adjustment are also related to substantive equality; they require

⁴⁷⁷ See for example Anne Philips ‘Defending equality of outcome’ (2004) 12 *Journal of Political Philosophy* 1 at 1; C Edwin Baker ‘Outcome equality of respect: The substantive content of equal protection’ (1983) 131 *University of Pennsylvania Law Review* 933 at 935.

⁴⁷⁸ Philips op cit note 477 at 1.

⁴⁷⁹ Baker op cit note 477 at 935.

⁴⁸⁰ Ibid.

⁴⁸¹ *Griggs v Duke Power Co* 401 US 424, 91 S Ct 849 (1971) (US Supreme Court).

⁴⁸² Fredman & Goldblatt op cit note 437 para 1.6.

‘an express adaptation of the existing environment in order to make it possible for a disadvantaged individual to participate’.⁴⁸³

Another approach to utilising outcome equality is to use inequalities between groups as indicators for the lack of equality of opportunity by comparing the situations of different groups. Philips determines that one should expect that ‘all groups would normally be distributed in roughly equal proportions along all measures of social activities’.⁴⁸⁴ Where such an equality of outcomes is absent, this is a ‘safe indication that opportunities are not yet equal’.⁴⁸⁵

A good example of the juristic application of the principle of outcome equality is the United Nations Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which has been interpreted to embody a substantive equality approach. Article 1 of CEDAW states:

For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

General Comment No 25 to CEDAW explains that CEDAW intends for women to be empowered to achieve equality of results. It clarifies that the latter is the ‘logical corollary of de facto or substantive equality’.⁴⁸⁶ The doctrine of outcome equality has been applied to other human rights treaties; this development started with the UN Human Rights Commission

⁴⁸³ Ibid para 1.7.

⁴⁸⁴ Philips op cit note 478 at 28.

⁴⁸⁵ Ibid.

⁴⁸⁶ CEDAW *General Comment* 25 para 8.

advancing the view that the CEDAW definition should be used for the interpretation of the term ‘discrimination’ entrenched in the International Covenant on Civil and Political Rights.⁴⁸⁷

- *Equality of opportunity*

This approach emphasises that every agent should enjoy the same opportunities as any other agent. It does provide space for substantive measures to ensure that the playing field is levelled, that is, to ensure that all actors are entering with equal opportunities for success. According to Fredman, ‘true equality cannot be achieved if individuals begin the race from different starting points. An equal opportunities approach, therefore, aims to equalise the starting points’.⁴⁸⁸

John Rawls has been influential in developing a purely formal and utilitarian approach to equality.⁴⁸⁹ His starting point is a situation in which persons who are acting under a ‘veil of ignorance’ have to make choices about the society in which they would like to live. He argues that the logical choice to make would entail two principles of justice, the first of which would advocate ‘an equal right to the most extensive system of equal basic liberties compatible with a similar system of liberty for all’.⁴⁹⁰ The second principle, which ranks lexically below the first principle, would be that ‘[s]ocial and economic inequalities are to be arranged so that they are both (a) to the greatest expected benefit of the least advantaged and (b) attached to offices and positions and open to all under conditions of fair equality of opportunities’.⁴⁹¹ Arguably, the first Rawlesian principle relates to liberal equality, whereas the second Rawlesian principle relates to fair, or in other words, substantive equality of opportunity.

⁴⁸⁷ UN Human Rights Commission General Comment No 18: Non-discrimination at para 7, cited in Fredman & Goldblatt op cit note 437 above.

⁴⁸⁸ Sandra Fredman ‘Beyond the dichotomy of formal and substantive equality: Towards a new definition of equal rights’ in Temporary Special Measures: Accelerating de facto Equality of Women under Article 4(1) UN Convention on the Elimination of all Forms of Discrimination Against Women (1999).

⁴⁸⁹ John Rawls *A Theory of Justice* (1971).

⁴⁹⁰ Ibid at 220.

⁴⁹¹ Ibid at 72.

The essence of equality of opportunity is that it is based on the insight ‘that equal treatment against a background of past and structural discrimination can perpetuate disadvantage’.⁴⁹² Different from equality of results, the approach aims at levelling the playing field, but it does not advocate that equal results have to follow.

- *Equality of dignity*

The value of dignity is playing an increasing role in the understanding of equality. Often individual dignity is advanced,⁴⁹³ and dignity underlies many fundamental rights instruments, such as the *Grundrechte* in the German Basic Law, the European Union’s Charter of Fundamental Rights and the South African Constitution. However, it must be remembered that universities are not necessarily regarded as bearers of dignity and that, consequently, this approach may not be suitable for direct application in the realm of higher education. However, the insight that there is a huge benefit to be gained from anchoring substantive equality in values, and inspiration for higher education partnerships can in this regard be drawn from the South African Constitution. In addition, as will be demonstrated in chapter 5, the value of dignity, which reflects in the recognition dimension of substantive equality, offers important insight for higher education partnerships. Furthermore, as will be demonstrated below⁴⁹⁴, the promotion of dignity emerged in the partnership context as a central aspect of the theoretical framework for equal bilateral international higher education partnerships based on substantive equality.⁴⁹⁵

⁴⁹² Fredman op cit note 29 at 51.

⁴⁹³ Fredman op cit note 24 at 53.

⁴⁹⁴ Chapter 6 section III(b) below.

⁴⁹⁵ Chapter 6 section V(a) below.

(c) Four-dimensional synthesis

Rather than focusing on one particular aspect of substantive equality, Fredman has developed a four-dimensional conception of equality.⁴⁹⁶ She argues that rather than focusing solely on one aspect, it is necessary to consider four different dimensions of equality. The first is a redistributive dimension which serves to affirm groups that have suffered disadvantages.⁴⁹⁷ It allows for remedial measures, such as affirmative action. While the focus is on material redistribution, Fredman construes this aspect to encompass power structures imposed by status and freedom to exercise individual choice.⁴⁹⁸ The focus on individual choice distinguishes it from a pure equality of opportunity approach.⁴⁹⁹

The second dimension is the recognition dimension, which is aimed at promoting dignity and countering stigma, stereotyping, humiliation and violence.⁵⁰⁰ It recognises that dignity and worth flow from humanity and attach to all. In order to apply it to the context of higher education, it would be important to consider that generally juristic persons are not bearers of dignity.⁵⁰¹

The third, participative dimension is to enhance social inclusion and equal participation in political processes.⁵⁰² It promotes the participation of the disenfranchised in decision-making processes. Fredman construes it broadly enough to encompass individual participation in social processes.

The fourth, transformative dimension aims to promote diversity and transform social and institutional structures. It is centred around the appreciation of diversity and emphasises that

⁴⁹⁶ Fredman op cit note 29 at 60.

⁴⁹⁷ Ibid.

⁴⁹⁸ Ibid.

⁴⁹⁹ Ibid at 62.

⁵⁰⁰ Ibid.

⁵⁰¹ See the discussion in Chapter 6 section III(b) below.

⁵⁰² Ibid at 67.

‘social structures must be changed to accommodate difference, rather than requiring members of out-groups to conform to the dominant norm’.⁵⁰³

Fredman and Goldblatt argue that this approach also allows for proper consideration of the ‘relationship of the individual to the group or collective’.⁵⁰⁴ In the context of discrimination directed against women, they aim to demonstrate, through an analysis of the views expressed by various treaty bodies, that the framework they propose is already implicit in the interpretation of equality by various treaty bodies.⁵⁰⁵ The frame of reference offered by Fredman and Goldblatt succeeds in extrapolating the fundamental tenets of substantive equality, and may offer a suitable structure for a future theoretical framework for higher education partnerships.

(d) Equity

Closely related to equality is the concept of equity, which is also frequently cited as a concept which should underlie higher education partnerships.⁵⁰⁶ According to Maringe and De Wit, who discuss it in the higher education partnership context, it ‘denotes a longstanding concern in higher education regarding the extent to which the distribution of opportunities to participate at this level of education is the same for all’.⁵⁰⁷ Leng argues that equity, which he regards as an aspect of mutuality in partnerships, means that ‘the aims and forms of cooperative programs are reached through mutual agreement’.⁵⁰⁸ The concept is often confused with equality. Bronfenbrenner explains that ‘the terms equality and equity are widely confused’ and confesses

⁵⁰³ Ibid at 64.

⁵⁰⁴ Fredman & Goldblatt op cit note 437 at 1.

⁵⁰⁵ Ibid.

⁵⁰⁶ For example, Helms op cit note 152 at 26; Jennifer Rickard, Faustin Ntirenganya, Georges Ntakiyiruta & Kathryn Chu ‘Global health in the 21st century: Equity in surgical training partnerships’ (2019) 76 *Journal of Surgical Education* 9–13.

⁵⁰⁷ Maringe & De Wit op cit note 7 at 303.

⁵⁰⁸ Leng op cit note 133 at 11. See also the discussion of mutuality in this chapter at section III(e) above.

that he has ‘been struck both by the prevalence of confusion between the terms “equality” and “equity” among students and ... [his] ... own inability to remedy the confusions’.⁵⁰⁹

Equity has a distinct legal meaning, although it is notoriously difficult to define.⁵¹⁰ The legal notion of equity has developed the English legal system, and is customarily defined as ‘that law which was administered by the old English Courts of Chancery’,⁵¹¹ but also refers to ‘fairness and natural justice’.⁵¹² For purposes of understanding equity in the context of higher education partnerships, this second meaning is critical, which also relates to its understanding as ‘that portion of the law which has been, or may be, enunciated for ameliorating any harsh or otherwise undesirable effects resulting from the strict application of any rule of law’.⁵¹³ The South African Constitutional Court refers to equity in its jurisprudence on public policy considerations in contracts.⁵¹⁴ In *Beadica*⁵¹⁵ Theron J cited *Barkhuizen*⁵¹⁶ with approval, which, in Theron’s view, ‘remains the leading authority in our law on the role of equity in contract’.⁵¹⁷ In this decision, Ngcobo J held that the validity of contractual terms should be determined ‘through the vehicle of public policy’.⁵¹⁸ A two-stage test, which first determines the reasonableness of the clause and thereafter ‘whether it should be enforced in light of the circumstances which prevented compliance’⁵¹⁹ should be applied. Essentially, the process

⁵⁰⁹ Martin Bronfenbrenner ‘Equality and equity’ (1973) 409 *The Annals of the American Academy of Political and Social Science* 9.

⁵¹⁰ See, for example, Howard L Oleck ‘Historical nature of equity jurisprudence’ (1951) 20 *Fordham Law Review* 23–44.

⁵¹¹ *Ibid.*

⁵¹² Leslie Rutherford & Sheila Bone (eds) ‘Equity’ *Osborne’s Concise Legal Dictionary* (1993).

⁵¹³ Oleck op cit note 510.

⁵¹⁴ See Fritz DJ Brand ‘The role of good faith, equity and fairness in the South African law of contract: A further instalment’ (2016) 27 *Stellenbosch Law Review* 238 for a comprehensive discussion of the principle of equity in the South African law of contract.

⁵¹⁵ *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others* 2020 (5) SA 247 (CC).

⁵¹⁶ *Barkhuizen v Napier* 2007 (5) SA 323 (CC).

⁵¹⁷ *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others* supra note 515 at para 58.

⁵¹⁸ Theron J, referring to *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others* *ibid* at 34.

⁵¹⁹ *Barkhuizen v Napier* supra note 516 at 56.

‘imports the “notions of fairness, justice and reasonableness”’⁵²⁰ to the interpretation of public policy.

The idea of equity in higher education partnerships is closely connected to the concept of reciprocal recognition⁵²¹ and entails that general principles of fairness and justice should be observed in partnerships. Koehn and Obamba, however, who postulate the concept of ‘near symmetry’ for higher education partnerships, reason that equality, which they understand as sameness, could be substituted with ‘complementarity and equity’.⁵²² Conceptually, the argument is flawed in that it presupposes a symmetrical or formal understanding of equality. As was explained above when substantive equality was discussed, symmetry is not a prerequisite for equality; if equality is construed substantively, it may be possible to achieve it in a partnership even when the partners are unlike.⁵²³ The preferred understanding of equity is that it imports general principles of fairness to partnerships. In this thesis, equity is understood as a principle which is distinct from equality and demands that general principles of fairness are applied to all partnership processes. It is submitted that the concept of equity has a rightful place in the higher education partnership discourse, which is clearly distinct from equality and complements the latter concept.

(e) Application of substantive equality to the higher education context

Using the classical formal understanding of equality, which assumes the sameness of the universities in higher education partnerships, would be insufficient to give meaning to the commitment to ensure ‘ethical and equal partnerships’.⁵²⁴ As argued by the researcher

⁵²⁰ *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others* supra note 515 at 35.

⁵²¹ Leng op cit 169 at 93.

⁵²² Koehn & Obamba op cit note 152 at 14.

⁵²³ See this chapter at section IV above and chapter 5 for an in-depth discussion of substantive equality.

⁵²⁴ Global Dialogue hosted by the International Education Association of South Africa op cit note 9 at 2.

previously, ‘a purely formal understanding, which is based on the assumption of sameness of universities, may even be used by established universities to secure a competitive advantage; especially when the partners are universities which vary greatly in size, shape, research output, reputation and economic strength’.⁵²⁵ The economically ‘weaker’ partner is typically not in a position to contribute financially in the same way as the ‘stronger’ partner.⁵²⁶ The absence of formal equality may even jeopardise the success and sustainability of collaborations and may result in one partner’s dominance.⁵²⁷ On the basis of the intrinsic logic of the formal equality paradigm, one could easily justify the greater influence of a ‘dominant, economically stronger partner on the decision-making processes in a partnership’ with reference to its higher financial contribution.⁵²⁸ In the general partnership literature, especially in works about North–South partnerships, it has been noted that a formal, symmetrical conception of equality would be insufficient. For example, Monica and Young state that ‘the desired equality between partners should not be understood as sameness’.⁵²⁹

Substantive equality may possibly be a better option for capturing the notion of equality in higher education partnerships. The concept has already found limited application in the context of international higher education partnerships.⁵³⁰ In a South African university internationalisation policy, it has been defined to mean that ‘every partner to a relationship should make contributions which are equally meaningful taking the context of the partner into consideration’.⁵³¹ The researcher was involved in the development of this policy-based definition and has suggested that ‘the notion of substantive equality may be a critical aspect of

⁵²⁵ Hagenmeier op cit note 9 at 43.

⁵²⁶ Ibid.

⁵²⁷ Ibid.

⁵²⁸ Ibid.

⁵²⁹ Blagescu & Young op cit note 292 at 4.

⁵³⁰ Hagenmeier op cit note 9.

⁵³¹ University of Venda *Internationalisation Policy* (2013).

developing a theoretically sound conception of equality in relationships of divergent strength'.⁵³²

The approach of the University of Venda could be criticised for focusing only on partnership contributions; the same holds true for the metric of exchange proposed by Hudzik.⁵³³ While equal financial and other contributions are an important dimension of equality in higher education partnerships, it would be overly simplistic to reduce equality to this aspect. Equally important aspects of equality in higher education partnerships include decision-making processes and the sharing of partnership benefits.

V. Conclusion

The literature review has confirmed that international higher education partnerships are a central tenet of the process of internationalisation, although there remains a lacuna in the academic discourse with respect to the meaning and realisation of equality in this context. Internationalisation itself has become a critical aspect of higher education. It serves to support the quality of education, research and community engagement and enhances the relevance of university education to the needs of the intertwined, globalised knowledge society. However, there is a diversity of views on the concept, which includes critical, decolonial and decolonising contestations,⁵³⁴ and which should be considered in the development of new concepts relevant to the process.

Equality concerns permeate the entire internationalisation discourse. One of the central perceived risks of internationalisation is that it contributes to rather than mitigates inequalities. If one takes the commitment to overcome global inequalities seriously, higher education needs

⁵³² Hagenmeier op cit note 9 at 45.

⁵³³ Hudzik op cit note 152.

⁵³⁴ See section II(c) of this chapter, where the decolonisation of internationalisation and related concepts are unpacked.

to structure the process of internationalisation to lead by example and develop models which contribute to overcoming inequalities in a deeply unequal global society. In other words, internationalisation must become a driver for changing existing global inequalities rather than remaining a force that perpetuates the existing power relations. The promotion of equality and equity should be tied to the promotion of academic values as central themes of the academic discussion and practice of any aspect of internationalisation. Higher education partnerships have the potential to contribute to overcoming global asymmetries, both in higher education and in the world at large.

Partnerships are a core aspect of the internationalisation process, and central to the flow of intellectual and other capital between higher education stakeholders. The review of the relevant literature confirms that inequalities exist in higher education partnerships. Achieving equality in partnerships would be an important contribution to structuring an internationalisation process which promotes equity and equality. The analysis demonstrated that it might be challenging to achieve equality in partnerships if one conceptualises equality as formal equality, although an example from the literature demonstrated the benefits when this notion could be successfully implemented. Substantive equality may be a concept which can advance the achievement of equality in higher education partnerships. This rich concept has been developed in other contexts and could be suitable for broader application in the higher education partnership context. The concept has already found limited application with regard to the determination of higher education partnership contributions.

On the basis of the literature study alone, it appears that an expanded notion of substantive equality, which could be infused with foundational values relevant to university partnerships, may be suitable for the higher education collaboration context. An attempt to define such a concept will be made in chapter 6 of this thesis.

CHAPTER THREE: SENIOR INTERNATIONAL OFFICERS' PERCEPTION OF EQUALITY

I. Introduction

The review of literature insinuates that inequalities are a reality in higher education partnerships.⁵³⁵ In order to gain a deeper understanding of the notion of equality in the context of higher education partnerships, and to examine the assumed inequalities within them, a survey was conducted among senior international officers (SIOs) and those in charge of partnership management at universities. The survey touched on aspects such as relevant current practices, inequalities in international bilateral university partnerships, and possible interventions to improve equality.

II. Method

A survey can be defined as 'the collection of information from a sample of individuals through their responses to questions'.⁵³⁶ Following a thorough analysis of different survey methods, the researcher decided to undertake an internet-based survey. Such surveys are flexible and cost-effective data collection tools and can be conducted in many ways.⁵³⁷ They are gaining increasing popularity in the study of populations which use the internet regularly.⁵³⁸ Considering the complexity of surveying a homogeneous sample of university officers responsible for the management of international partnerships, the researcher opted for a live

⁵³⁵ See chapter 2 section IV.

⁵³⁶ Julie Ponto 'Understanding and evaluating survey research' (2017) *Journal of the Advanced Practitioner in Oncology* 168; Joseph Check & Russell K Schutt 'Survey research' in Joseph Check & Russell K Schutt (2017) *Research Methods in Education* 159.

⁵³⁷ Check and Schutt op cit note 536 at 22.

⁵³⁸ Fenella J Gill, Gavin D Leslie, Carol Grech & Jos M Latour 'Using a web-based survey tool to undertake a Delphi study: Application for nurse education research' (2013) 33 *Nurse Education Today* 1322.

survey, which is ‘a type of distributed system application that allows users to create a range of questions, then distribute it to a selected audience or survey target in real-time’.⁵³⁹

(a) Population

SIOs were purposefully selected as the principal respondents because of their central position in partnership administration and their involvement in the institutional and system-wide discourse concerning internationalisation and partnership processes. This locates them as repositories of knowledge relating to international partnerships. They are in a unique institutional position which allows them insight into the theoretical, policy and practical approaches of universities to partnerships as well as partnership dynamics and management. In concordance with the interpretivist approach of the study, their interpretations of equality were collected to obtain a clear understanding of practices and conceptualisations of equality in higher education partnerships, specifically in those partnerships between higher education institutions of different strengths.⁵⁴⁰

SIOs are the individuals bearing the institutional responsibility for internationalisation, irrespective of their job title. An SIO is typically ‘an individual at a high level of institutional leadership who heads an office dedicated to internationalising the broad scope of the institution’s programs and activities’.⁵⁴¹ SIOs synergise internationalisation and are seminally involved in institutional internationalisation strategy and policy development and implementation as well as international project development.⁵⁴² At many universities, SIOs are responsible for growing and managing international partnerships,⁵⁴³ and consequently have a

⁵³⁹ Maisaarah Abd Halim, Cik Feresa Foozy, Isredza Rahmi & Aida Mustapha ‘A review of live survey application: SurveyMonkey and SurveyGizmo’ (2018) 2 *International Journal on Informatics Visualization* 309.

⁵⁴⁰ See Robert E Stake *Qualitative Research* (2010) at 68, who emphasises the importance of viewing a phenomenon through the eyes of relevant professionals.

⁵⁴¹ Alan Dessoiff ‘The rise of the senior international officers’ (2010) 19 *International Educator* 45.

⁵⁴² Susan Lambert, Riall Nolan, Norman Peterson & Deborah Price *Critical Skills and Knowledge for Senior Campus International Leaders* (2007).

⁵⁴³ Dessoiff op cit note 541 at 47.

deep understanding of the dynamics underlying their institution's collaborations. Furthermore, they are professionals who are typically involved in the internationalisation discourse, which often takes place within the purview of their professional associations, such as the International Education Association of South Africa (IEASA), the US Association of International Education Administrators (AIEA), the Brazilian Association for International Education (FAUBAI) or the European Association for International Association (EAIE).

However, it is essential to note that the emergence of SIO positions is a relatively recent development, which has evolved since the 1990s.⁵⁴⁴ It has not yet permeated all universities, and different approaches prevail in different world regions. Many institutions have not yet created such positions, and at some of those institutions the administration of internationalisation processes is decentralised and takes place through various offices. Some universities have structured partnership offices which are responsible for domestic and international collaboration, but are not involved in other aspects of internationalisation. This chapter takes this diversity into account and evaluates information from individuals responsible for the management of international partnerships who do not seamlessly fit the profile of an SIO where such a position is not part of the organogram, or where other office bearers are entrusted with partnership management. Participants were positioned at different levels of institutional hierarchies; in the case of small universities, the participation of Vice-Chancellors who are directly involved in partnership management was allowed. It is however acknowledged that the diversity of institutional internationalisation structures results in asymmetries in the experience and insight of SIOs or persons bearing institutional responsibility for partnerships into practices and conceptualisations of equality relating to them, which is a limitation of the study.

⁵⁴⁴ Ibid at 45.

(b) Initial questionnaire

The survey was developed on the basis of the insight gained through the literature review in the issues relating to equality in international higher education partnerships. The researcher ensured that the survey was consistent with the interpretivist paradigm that was adopted for this study. Where quantitative questions were included, their framing and function was aligned with the overall interpretivist paradigm of the study.⁵⁴⁵ A combination of questions with answer options, Likert-type scales, as well as open-ended questions were integrated into the survey. Furthermore, the questionnaire contained select ‘yes-or-no’ type questions, as well as some rating scales. The different questions were constructed to allow the researcher to gain an understanding of the respondent professionals’ point of view on equality in bilateral higher education partnerships.

The researcher had to develop the survey instrument himself because it was not possible to find an existing instrument which could assist in understanding equality in higher education partnerships. Based on the research question and the insight gained through the literature review, the researcher drafted the instrument. While the literature did not offer a complete theoretical framework for equality in higher education partnerships, the writings of De Wit and Maringe,⁵⁴⁶ Sutton et al,⁵⁴⁷ Carbonnier and Kontinen,⁵⁴⁸ Landau,⁵⁴⁹ Hudzik⁵⁵⁰ as well as Koehn and Obamba⁵⁵¹ informed its development. In addition, the researcher’s earlier academic engagement with the theme of the research⁵⁵² and his observations as a university manager

⁵⁴⁵ See chapter 1 section V for a detailed discussion explaining how the study’s mixed-method design is underpinned by the interpretivist paradigm.

⁵⁴⁶ Maringe & De Wit op cit note 7

⁵⁴⁷ Sutton et al op cit note 6.

⁵⁴⁸ Carbonnier & Kontinen op cit note 227.

⁵⁴⁹ Landau op cit note 227.

⁵⁵⁰ Hudzik op cit note 152.

⁵⁵¹ Koehn & Obamba op cit note 152.

⁵⁵² Hagenmeier op cit note 9.

responsible for international higher education partnerships assisted with the formulation of the questions.

A central insight gained through the literature was that, to date, there has been ‘only limited engagement with the question whether equality should be a principle underlying higher education partnerships’,⁵⁵³ and that ‘the crucial question which conception of equality is appropriate for higher education partnerships is left open, and most of the writings simply assume without in-depth discussion that their own peculiar understanding of equality is of universal validity’.⁵⁵⁴ Thus, the questionnaire was designed to determine whether equality is indeed considered a fundamental principle in international higher education partnerships. In addition, it was intended to clarify whether there is already a prevailing concept of equality in higher education partnerships amongst those SIOs who agree with the concept, and elicit the underlying understanding of equality and the elements of the concept. The questionnaire was divided into three distinct sections: (a) categorical data; (b) information on the SIO’s own university; and (c) personal views on equality in higher education partnerships.

First, person-specific questions relating to gender, position in the organisation and experience in the position were asked. Second, information relating to the respondent’s university was collected. Adhering to the interpretivist framework and acknowledging that knowledge social interaction is the basis of knowledge, emphasis was placed on the respondents’ subjective perception of equality dynamics at their universities. Participants were requested to categorise the context of their country as ‘developed’ or ‘emerging’, to indicate the world region and ranking position of their university, and to state the number of bilateral international university partnerships hosted by their university. They were asked whether they

⁵⁵³ See chapter 2 section IV(b).

⁵⁵⁴ See chapter 2 section IV(b).

have standard templates for Memoranda of Understanding, and policies governing international bilateral university partnerships. Copies of the documents were sought. This was followed by requesting the total number of partnerships, as well as the numbers of collaborations respectively with universities with a 'similar', 'lower' or 'higher' ranking position. Those who did not answer those questions were requested to give the reason for this. In the next section respondents were asked to elaborate upon equality in the context of their own university's partnerships. Participants were asked to indicate on a Likert scale ranging from one to ten whether equality is a major concern in their university's international bilateral university partnerships. This was followed by analogous Likert-style questions relating to equality in partnerships with 'higher', 'lower' and 'similar' ranked universities. Thereafter, views on equality in the context of their university were solicited, where participants were given predefined answer options and an opportunity to comment. Concluding the section was a Likert-style question interrogating views on equality in the context of each respondent's institution's international bilateral university partnerships.

Third, respondents elaborated upon their personal views of equality. At the outset, it was determined whether respondents agreed with the concept of equality. Those who did not agree with the concept were asked to explain why they hold this view, whereafter the questionnaire ended. Logically, it would not have made sense to ask those who disagree *a priori* with the concept of equality to provide details on their understanding of it.

If respondents answered in the affirmative, detailed questions on the concept followed. Participants were asked to state why they consider equality to be a fundamental principle relating to partnerships. The next focus area was perceptions of equality dynamics in partnerships between universities of different strengths; this was investigated through a Likert-style question, with an option for comments. This was followed by questions ascertaining whether equality issues predominantly arise in bilateral international university partnerships

between higher education institutions of substantively different ranking positions and whether they predominantly arise in partnerships between higher education institutions where one partner is located in a developed country and the other partner in an emerging country. Thereafter, the views of respondents on the causes of the lack of equality in partnerships were ascertained through a question with predefined answer options and the opportunity to provide comments. Subsequently, following the regular and frequent focus in literature on partnership contributions and benefits,⁵⁵⁵ participants' views on how partnership benefits and contributions should be structured were requested.

Respondents were requested to indicate how, in their view, equality in higher education partnerships could be enhanced. In addition, they were asked to indicate on Likert-scales whether, in their view, unequal higher education partnerships typically result in the 'lower ranked' partner or the 'higher ranked' partner deriving a greater benefit, and whether issues of equality are more pronounced in international bilateral university partnerships when partners are located in different world regions.

(c) Survey of SIOs selected through a stratified process

The original plan was to survey a homogeneous sample of 150 purposively selected SIOs by means of a questionnaire comprising 37 questions. The participants were identified using the International Association of Universities' 'Worldwide Database of Higher Education Institutions, Systems and Credentials' (WHED)⁵⁵⁶ and the 'Times Higher Education World University Rankings 2015–2016' (THE).⁵⁵⁷ Twenty-five universities were purposively selected

⁵⁵⁵ See, for example, Hudzik op cit note 152 and Maringe & De Wit op cit note 7.

⁵⁵⁶ The International Association of Universities' Worldwide Database of Higher Education Institutions, Systems and Credentials' is a database of the International Association of Universities (IAU) which can be accessed by its membership. Information on the database is available at the 'International Association of Universities' Worldwide Database of Higher Education Institutions, Systems and Credentials' at http://www.whed.net/results_institutions.php (accessed 21 January 2021).

⁵⁵⁷ 'The Times Higher Education (THE) World University Rankings 2015–2016', available at <https://www.timeshighereducation.com/world-university-rankings> (accessed 21 January 2021).

from each of the world regions contained in the WHED (Africa, Asia, Europe, Latin America and the Caribbean, North America, and Oceania) to have diverse samples from the different world regions. To ensure the diversity of participating universities within world regions, the THE was utilised: Within the universities from the different world regions, two were selected from the top one hundred, as well as two each from the universities ranked 101–200, 201–300, 301–400, 401–500, 501–600, 601–700 and 701–800, while the remaining nine were selected from those who are not in the top 800, guaranteeing a fair representation of other institutions. In some world regions, namely in ‘Africa’ as well as in ‘Latin America and the Caribbean’, not enough universities are ranked in the higher categories, and therefore the gap was filled with lower ranked or unranked universities to ensure that all world regions were sufficiently represented.

Rankings were utilised to direct the selection of universities not because the study considers them beneficial to higher education, but because they reflect the reality of power dynamics in the sector.⁵⁵⁸ Pusser and Marginson observe:

Rankings serve as a particularly useful lens for the study of power in higher education, as they are used to confer prestige, in the allocation of resources, as a form of agenda-setting, as a means of stratifying national higher education systems, as a means of establishing hierarchical relations between nations, and as a lever to impose demands for accountability and normative adoption.⁵⁵⁹

This study acknowledges that rankings have manifold risks and that the aspects of university’s performance measured by them can be rightly criticised as not suitable for presenting an appropriate judgment on the real merit of the higher education institutions. For example, most rankings determine international orientation by recourse to numbers of

⁵⁵⁸ Ellen Hazelkorn ‘Impact of global rankings on higher education research and the production of knowledge’ (2009) 15 *UNESCO Forum on Higher Education, Research and Knowledge Occasional Paper*.

⁵⁵⁹ Brian Pusser & Simon Marginson ‘University rankings in critical perspective’ (2013) 84 *The Journal of Higher Education* 544.

international students and staff members as well as the count of international co-authored papers.⁵⁶⁰ This not only discards the quality of internationalisation at the ranked institutions and important dimensions such as internationalisation at home, but also encourages universities to predominantly improve on the measured criteria in order to advance in the ranking tables. Nevertheless, rankings do reflect the reality of power relations in higher education; in the words of Amsler and Bolsman, they ‘indicate precisely what they claim to: where elite people are funded by elite people to teach elite people knowledge for elites’.⁵⁶¹ Consequently, they can serve the purpose of ensuring that the sample consists of universities of divergent strengths.

All persons who were included in the sample were SIOs or other employees in charge of partnership management. A discretionary judgment was made by the researcher to identify the correct individual at selected universities; typical job titles included ‘Deputy Vice-Chancellor Internationalisation’, ‘Vice-President International Affairs’, ‘Vice Provost International Affairs’, ‘Director Internationalisation’ and ‘Director Office of International Affairs’. If any of the respondents did not reply, the intention was to administer another questionnaire to a respondent at one of the institutions in the same THE category in the same world region.

The electronic survey was introduced by an email which was followed up. A link was provided to the web-based questionnaire, which was administered with the aid of the web-based system ‘SurveyMonkey’. To ensure that only individuals with the necessary experience and insight were participating, respondents were requested to indicate whether they are responsible for the management of international bilateral university partnerships at their institutions. If

⁵⁶⁰ Hans de Wit ‘The consequences of internationalisation rankings’ (2016) 416 *World University News* 3 June 2016.

⁵⁶¹ Sarah S Amsler & Chris Bolsman ‘University ranking as social exclusion’ (2012) 33 *British Journal of Sociology of Education* 283 at 284.

respondents indicated that they do not have this responsibility, they were excluded from the survey, and in their stead another SIO from an institution in the same category was approached.

(d) Revision of the survey method

The evaluation of the data from the initial survey indicated that it delivered a response rate too low for the information to be considered reliable. Out of 150 selected participants, only 23 responses were received, of which only 19 were valid. Considering the non-response bias of 87.34 per cent, the results alone do not present valid and reliable insight into the point of view of SIOs and those entrusted with the management of partnerships at higher education institutions. In the circumstances, the researcher decided to evaluate only the qualitative data from the first survey, and to repeat the survey, using an adapted strategy.

The researcher investigated possible reasons for the low response rate. In informal discussions with respondents, it transpired that for many SIOs, diaries do not allow them to commit extensive time to responding to surveys. Second, the use of a research assistant may have been counterproductive, because the respondents, all of whom are senior university administrators, may have preferred to be contacted by the researcher directly.

To achieve the aim of the survey, ie to obtain basic insight into the prevailing understanding of equality in higher education partnerships in universities, the researcher decided to revise the survey and administer it a non-probability sample of SIOs, with a view to obtaining a better response rate. Since it was not possible to obtain the desired purposive sample with the means available, he followed the principle that one should obtain a sample which is ‘as good as it can be’, while being easily accessible.⁵⁶² The non-probability sampling allowed

⁵⁶² Lynette Jacobs *School Violence: A Multidimensional Educational Nemesis* (PhD dissertation, University of the Free State, 2012) at 175. See also Martin B Davies & Nathan Hughes *Doing a Successful Research Project: Using Qualitative or Quantitative Methods* (2014).

the researcher to send the questionnaire to a large number of SIOs, partnership managers and university officers responsible for the management of bilateral international university partnerships.

(e) Revised questionnaire

A shortened questionnaire was used. The researcher was guided by the evaluation of the 19 responses received for the first survey. The questions following which large numbers of respondents aborted the survey were eliminated. The most problematic ones were those which required the consideration of equality in partnerships considering the partners' ranking position. The structure of the first questionnaire was retained. The questions are presented together with the results below, and they are also attached.

(f) Survey of a convenience sample of SIOs

Respondents for the revised survey were identified through university websites, as well as through the professional social media network 'LinkedIn'. Up to two reminders were sent to selected respondents. Every email inviting participation was accompanied by a personalised, formal invitation letter, which was individually signed and scanned. Follow-ups were made through emails, phone calls and 'LinkedIn' messaging. The revised survey was open for responses from 2 January 2020 to 15 October 2020. Of the total of 243 surveys sent out, 94 responses were received, of which 87 were valid. To ensure that all respondents were members of the survey's target group, a yes or no question to determine whether they are responsible for the management of bilateral international university partnerships was posed (Q4). A negative response resulted in the questionnaire being terminated. Of the 87 valid responses, one indicated a negative answer, which resulted in this dataset not being included in the evaluation, leaving 86 responses for evaluation. Altogether, 86 of the responses were valid, meaning that the response rate was 35,3 per cent.

While the researcher administered the survey to a convenience sample of SIOs and those in charge of partnerships at an institutional level, a conscious effort was made to spread to the invitations to SIOs in all six world regions identified in the WHED. Diverse respondents were selected with a view to including a wide spread of differently ranked universities. An attempt was made to ensure that SIOs from universities of divergent strengths were selected and that a similar number of institutions in the different world regions would be represented through their SIOs.

The main advantage of the change in method was that it gave the researcher the flexibility to select universities which offered on their websites comprehensive contact details of the SIO or office-bearer responsible for partnership management. In addition, the shorter questionnaire took into account the very tight schedules of the respondents, and thus encouraged participation.

(g) Ethical considerations

Upholding ethical standards to avoid any harm befalling respondents was of the utmost importance to the researcher. As explained above, ethical approval was obtained from UCT.⁵⁶³ When it became clear that changes were necessary to achieve the purpose of the survey, the researcher applied to UCT for approval to amend the sampling method and questionnaire, which was granted on 6 December 2019. The following standards were upheld:

- *Informed consent*

Voluntary participation is a major tenet of research ethics.⁵⁶⁴ The principle of informed consent, which emanates from the right to freedom and self-determination, is central.⁵⁶⁵ The researcher obtained informed consent from respondents. An email, to which a formal letter requesting

⁵⁶³ See chapter 1 section VII.

⁵⁶⁴ Earl Babbie & Johann Mouton *The Practice of Social Research: South African Edition* (2010) at 521.

⁵⁶⁵ Louis Cohen, Lawrence Manion & Keith Morrison *Research Methods in Education* (2007) at 77.

participation in the survey was attached, was sent to the SIOs and partnership managers who had been identified. Participants were invited to personally or virtually meet with the researcher to discuss any questions which they may have had. Copies of the letter and consent form are attached.

- *Anonymity*

Anonymity was ensured in the analysis and reporting of the data, and in writing up the research in this thesis. The responses received via SurveyMonkey were labelled without identifiers. In the evaluation, only the categorical numerical data was considered for comparisons. In the reporting on the qualitative data, while direct quotes were used to substantiate claims, no reference is made to the individuals who responded.

- *Confidentiality*

In order to ensure confidentiality, the raw data was accessed only by the researcher and one research assistant. Strictest confidentiality of all information obtained from participants was assured. Access was provided to the researcher's supervisor and co-supervisor where necessary. The research assistant signed a confidentiality agreement.

(h) Trustworthiness, validity and reliability of the study

The integrity of the survey and the responses was determined in accordance with the method used for a specific section of the survey. Trustworthiness, validity and reliability were considered as applicable to the different situations.

- *Trustworthiness*

Central to the validation of the survey was establishing the trustworthiness of the qualitative data. Trustworthiness signifies 'the degree of confidence in the data, interpretation, and

methods used to ensure the quality of a study’.⁵⁶⁶ Trustworthiness demonstrates that it is worthwhile for an inquirer to take note of a study,⁵⁶⁷ and can be enhanced through building credibility, triangulation and peer debriefing into the design.

Credibility is the notion ‘that confidence can be placed in the research findings’.⁵⁶⁸ The plausibility of the information is underscored by the researcher’s extensive experience in the field.⁵⁶⁹ He has been responsible for the management of international bilateral higher education partnerships for more than a decade, and has, through his practical engagement with managing equality concerns at two South African universities and in a network in which he serves as coordinator, been able to strengthen his understanding of the relevant dynamics and his ability to formulate the relevant questions.

Triangulation of data collected through quantitative measures refers to ‘using multiple sources of data means comparing and cross-checking data collected’.⁵⁷⁰ The qualitative data collected for this empirical study was compared with simultaneously collected quantitative data, and the findings were juxtaposed in the discussion of the results. In addition, the findings of the study were compared with the results emanating from the case studies, which are presented in the following chapter.

Peer debriefing was practised to assist the researcher in reviewing his data. It involves the process of presenting ‘study findings to peers to receive their comments’.⁵⁷¹ Through the discussion of the results with a colleague who has extensive experience in qualitative data

⁵⁶⁶ Lynne M Connelly ‘Trustworthiness in qualitative research’ (2016) 25 *Medsurg Nursing* 435. See also Yvonna S Lincoln & Egon G Guba *Naturalistic Inquiry* (1985).

⁵⁶⁷ Babbie & Mouton (2010) op cit note 564 at 276.

⁵⁶⁸ Vicent Naano Anney ‘Ensuring the quality of the findings of qualitative research: Looking at trustworthiness criteria’ (2014) 5 *Journal of Emerging Trends in Educational Research and Policy Studies (JETERAPS)* 272 at 276.

⁵⁶⁹ Ibid.

⁵⁷⁰ B Sahran Merriam & Elisabeth Tisdell *Qualitative Research: A Guide to Design and Implementation* 4 ed (2015) at 245.

⁵⁷¹ Anney op cit note 568 at 276.

analysis, the process of crystallising the core findings of the chapter was supported, and the consistency of the data was evaluated.

- *Validity*

Since the researcher had to develop the questionnaire himself, it was critical to ensure the validity of the quantitative measures. This concept refers to ‘the extent to which a concept is accurately measured in a quantitative study’.⁵⁷² Content validity was ensured by including all aspects of partnership processes in the quantitative sections of questionnaire, based on the literature which had been reviewed and the observation of the researcher as partnership manager. Furthermore, the instrument was piloted with the supervisors and two SIOs prior to it being disseminated on a large scale.⁵⁷³ In addition, standard deviations, which are ‘calculated as the square root of the variance {the sum of the squares of the difference between each individual score and the mean score, divided by (the number of scores-1)}’,⁵⁷⁴ were considered as an indicator of validity.

- *Reliability*

Reliability measures the consistency of a measure, which is:

[t]he extent to which results are consistent over time and an accurate representation of the total population under study is referred to as reliability and if the results of a study can be reproduced under a similar methodology, then the research instrument is considered to be reliable.⁵⁷⁵

In a self-developed questionnaire used for the first time, it is not possible to apply this conception. Instead, the internal reliability of the quantitative data collected was tested using Cronbach’s alpha test, which is a measure that determines a scale or test’s internal

⁵⁷² Roberta Heale & Alison Twycross ‘Validity and reliability in quantitative studies’ (2015) 18 *Evidence-based Nursing* 66.

⁵⁷³ See, for example, Janice Rattray & Martyn C Jones ‘Essential elements of questionnaire design and development’ (2007) 16 *Journal of Clinical Nursing* 234.

⁵⁷⁴ Jacobs op cit note 562.

⁵⁷⁵ M Joppe *The Research Process* (2000), cited in Nahid Golafshani ‘Understanding reliability and validity in qualitative research’ (2003) 8 *The Qualitative Report* 597.

consistency.⁵⁷⁶ Recourse to Cronbach's alpha test has the advantage that only one test administration is required.⁵⁷⁷ A value above 0.7 is considered as indicating the reliability of the dataset. Cronbach's alpha test value was 0.793, indicating good internal consistency in spite of the small final sample.

III. Data analysis

Data evaluation was undertaken through the analytical tools embedded in SurveyMonkey and the Statistical Programme for the Social Sciences (SPSS). The quantitative data was triangulated against the qualitative data, and the results are presented together below. Qualitative data was analysed through thematic analysis.

(a) Quantitative data analysis

The quantitative data collected through SurveyMonkey was exported to Microsoft Excel and SPSS for analysis. SPSS was used to test the reliability of the Likert-style questions through Cronbach's alpha and, as indicated above,⁵⁷⁸ showed a high level of internal consistency. It was cleaned up (eg removing responses from those individuals who completed only the first part of the survey) and coded, whereafter it was transferred to SPSS. The analysis was first conducted using the tools embedded in this internet-based survey system, and further evaluation was undertaken utilising Microsoft Excel and SPSS.

⁵⁷⁶ Mohsen Tavakol & Reg Dennick 'Making sense of Cronbach's alpha' (2011) 2 *International Journal of Medical Education* 53; Frank Quansah 'The use of Cronbach alpha reliability estimate in research among students in the Republic of Ghana' (2017) 6 *Africa Journal of Teacher Education* 56–64.

⁵⁷⁷ Tavakol & Dennick op cit note 576.

⁵⁷⁸ See chapter 3 section II(g).

- *Descriptive statistics*

Through descriptive statistics, the data was described and presented. Frequency distribution, which indicates the distribution of observations into different categories or ranges,⁵⁷⁹ was applied to present the distribution of predefined answers and categorical data. Mean scores, which are ‘the arithmetic average of all the scores for a variable in a set of data’,⁵⁸⁰ were calculated to evaluate Likert-scale style questions, as an indication of central tendency. In addition, the standard deviation as an indication of the spread of the scores was calculated.

- *Differential statistics*

Differential analysis was undertaken using the One-Way Analysis of Variance (ANOVA)⁵⁸¹ to analyse differences in mean scores on the variables in relation to categorical data. This procedure is used to establish the statistical significance of differences in mean scores between more than two groups.

(b) Qualitative analysis

Inductive reflexive thematic data analysis method was used for the analysis of qualitative data. Clarke and Brown consider ‘[t]hematic analysis’ to be ‘a method for identifying and analysing patterns in qualitative data’.⁵⁸² This method is philosophically versatile and not obligated to any specific paradigm.⁵⁸³ However, it is important for quality thematic analysis that researchers ‘always reflect on and specify the philosophical and theoretical assumptions informing their

⁵⁷⁹ Tim Futing Liao ‘Frequency distribution’ in Michael S Lewis-Beck, Alan Bryman & Tim Futing Liao (eds) *The SAGE Encyclopedia of Social Science Research Methods* (2011) <http://dx.doi.org/10.4135/9781412950589>.

⁵⁸⁰ Jacobs op cit note 562 at 184.

⁵⁸¹ Ibid.

⁵⁸² Victoria Clarke & Virginia Braun ‘Teaching thematic analysis: Overcoming challenges and developing strategies for effective learning’ (2013) 26(2) *The Psychologist* at 11.

⁵⁸³ David Alfsen, Thea Palsgaard Møller, Ingrid Egerod & Freddy K Lippert ‘Barriers to recognition of out-of-hospital cardiac arrest during emergency medical calls: A qualitative inductive thematic analysis’ (2015) 23 *Scandinavian Journal of Trauma, Resuscitation and Emergency Medicine* 70.

use of thematic analysis'.⁵⁸⁴ Consistent with the paradigm of the study, it was used within an interpretivist paradigm, acknowledging and leveraging on the subjectivity of the researcher. The choice of method was informed by the lack of common understanding of concepts relating to the phenomenon under scrutiny, equality, which had become evident from the researcher's study of the literature and his own observations.

Data analysis was conducted, informed by Clarke and Brown's recommendations.⁵⁸⁵ The researcher first familiarised himself with the data. This was achieved through immersing himself in a process of multiple readings and re-readings. Thereafter it was coded, and pithy labels were assigned, considering both the conceptual and semantic reading of the data. Next, themes emanating from the responses were identified and reviewed. Categories were distilled which assisted in understanding the data. The emerging results were triangulated against the choices of predefined answer options. Emphasis was placed on discovering the latent meaning of the data. Direct quotes from the data were used to substantiate claims, and participants were indicated with a number eg P10 or P34.

(c) Cleaning the data and final sample

The first consideration of the biographical data from the second survey revealed that of the 94 questionnaires collected, eight contained only categorical data. They were discarded and excluded from further evaluation. The final sample which was thus evaluated consisted of 86 participants in the following categories:

⁵⁸⁴ Virginia Braun & Victoria Clarke 'One size fits all? What counts as quality practice in (reflexive) thematic analysis?' (2020) *Qualitative Research in Psychology* at 11. DOI:10.1080/14780887.2020.1769238.

⁵⁸⁵ Ibid.

Table 1: Biographical data of the participants

		Africa	Asia and the Middle East	Europe	Latin America and the Caribbean	North America	Oceania	Total
Gender	Male	8	5	16	9	9	0	47
	Female	6	4	12	5	10	1	38
	Prefer not to say	0	0	1	0	0	0	1
Ranking position	1-100	1	0	4	0	3	0	8
	101-200	0	0	3	1	2	0	6
	201-300	0	0	2	2	0	0	4
	301-400	0	0	1	1	0	0	2
	401-500	0	0	2	1	4	0	7
	501-600	0	1	2	1	2	0	6
	601-800	2	3	0	0	4	1	10
	Not ranked	5	4	9	7	2	0	27
	Not sure / prefer not to answer	6	1	6	1	2	0	16
	No response	0	0	0	0	0	0	
Position	University CEO (eg Rector, President)	1	1	0	0	0	0	2
	University Executive (eg Deputy Vice Chancellor, Provost)	2	2	9	1	4	0	18
	University Senior Manager (eg Director, Head of Department)	10	5	10	11	20	1	57
	University Middle Manager (eg partnership manager)	0	1	0	2	5	0	8
	Prefer not to answer	1	0	0	0	0	0	1
Years in position	Less than two years	5	0	1	1	7	0	14
	Two to four years	3	5	7	7	6	0	28
	Five to nine years	4	3	5	3	7	1	23
	Ten years or more	1	1	5	3	8	0	18
	Not answered	1	0	1	0	1	0	3
Country characteristics	Emerging country	11	5	3	0	19	1	39
	Developed country	1	3	26	12	0	0	42
	Not sure how to classify it/prefer not to classify it	2	1	0	2	0	0	5
	No response	0	0	0	0	0	0	0

In spite of the recourse to convenience sampling, it was possible to achieve diversity of participation in all categories. However, the limitations of the sample size and composition are recognised, for example, that only one respondent hails from Oceania. Consequently, it will be necessary to build on this study by doing further research.

IV. Results

The results are presented following the logical order in which the questionnaire was structured. First, perceptions of equality at the respondents' own university will be analysed, whereafter the data relating to personal views on equality in international higher education partnerships will be evaluated.

(a) Perceptions of equality at the respondents' own university

Respondents were probed about equality at their own university, in terms of international bilateral university partnerships.

- *Equality concern at the respondents' own university*

The respondents were asked to indicate on a 10-point scale whether equality is a major concern in their international bilateral university partnerships. Overall, the perception is that equality is a prevailing concern in international partnerships of the universities at which participants are working, which is indicated by a mean of 6.93. Differential analysis was undertaken to determine whether there are deviations depending on the world region from which the respondents come, the ranking position of their universities, whether their university is located in an emerging country or a developed country, and the seniority of participants in the university's hierarchy. The only notable difference was found between respondents hailing from different world regions:

Table 2: Perceptions of equality at the respondents' own university

	n	Mean	Standard Deviation	Minimum	Maximum	F	P
Africa	13	8.00#	1.780	4	10	0.437	0.647
Asia and the Middle East	9	5.44	2.351	2	10		
Europe	28	6.44	2.264	1	10		
Latin America and the Caribbean	14	7.79	1.477	5	10		
North America	18	6.61	2.789	1	10		
Oceania	1	8.00#	-	8	8		
Total	83	6.93	2.294	1	10		

* 95% probability of a statistically significant difference ($p \leq 0.05$)

highest mean score

The data suggests that participants from Africa, as well as those in Latin America and the Caribbean, are of the view that equality in partnerships is more of a concern in their partnerships compared to other respondents. However, although the mean is notably higher for participants from this region, the one-way ANOVA reveals that it is not statistically significant (p 0.647).

- *Views relating to equality in the context of respondents' own institution's international bilateral university partnerships*

To obtain more differentiated insight into the subjective perceptions of those responsible for partnership management, respondents were asked to indicate their views about equality in the context of their institution's international bilateral university partnerships. A number of pre-defined answer options were provided, together with space for comments. The responses are indicated in the graph below.

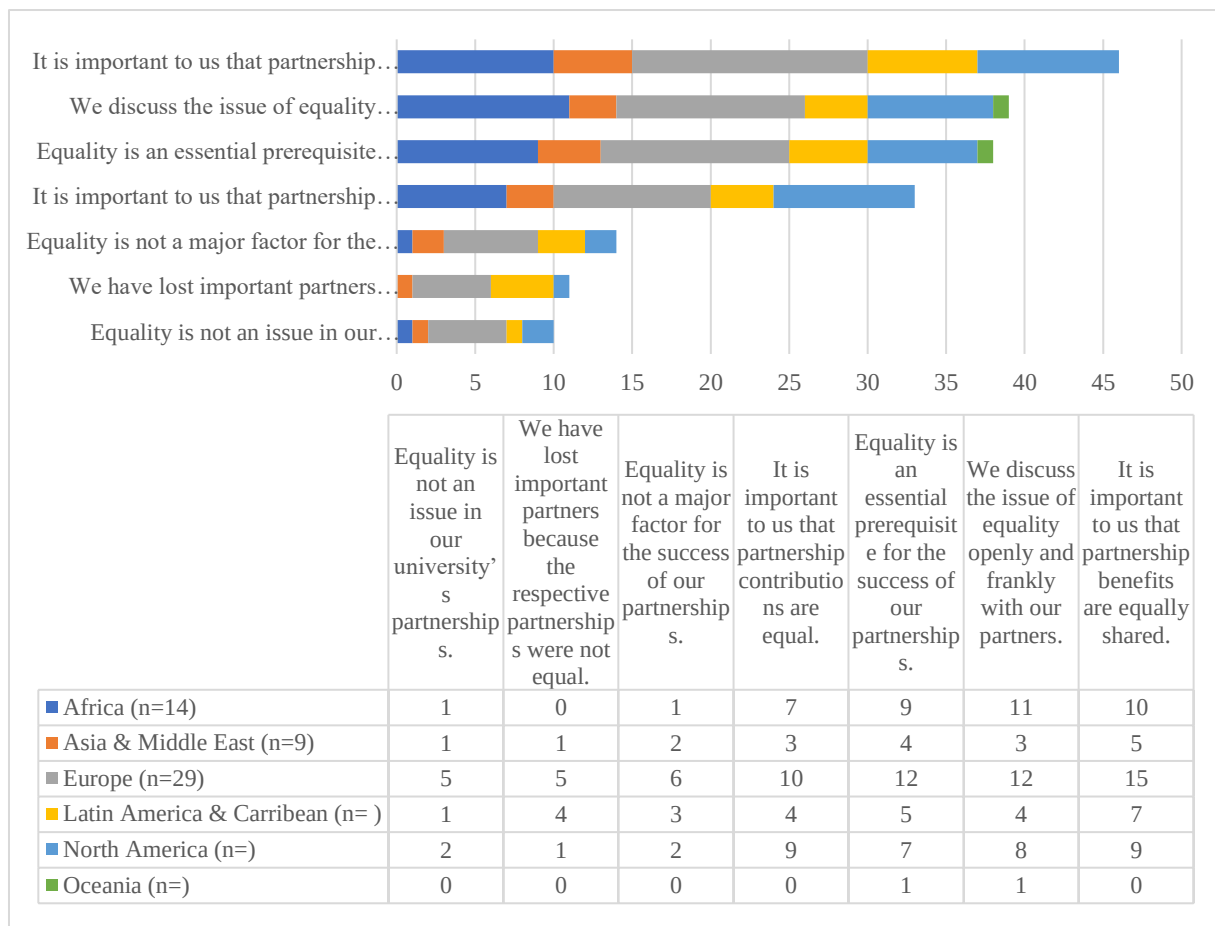


Figure 1: Responses to question 'In the context of your institution's international bilateral university partnerships, what are your views relating to equality?'

A large number of respondents (45,78 per cent) regard equality as an essential prerequisite for the success of their university's partnerships, and the qualitative data confirms this: 'We firmly believe that to have successful partnerships each party needs to feel like they are equal partners' (P70). However, equality is at times compromised – P6 remarked that 'we will sometimes get into partnerships that are not 100% equitable but provide benefit to us' – and sometimes put into perspective: 'equality is a concern for our partnerships, but not a mandatory condition' (P12). On the other hand, the importance of equality is recognised by universities; one respondent indicated in the context of his university's partnerships that 'if you want a truly internationalised university and environment, equality is a key to success' (P58).

Figure 1 shows that only a few participants highlighted that equality is not an issue in their university's partnerships (12,05 per cent), or that equality is not a major factor for the success of their partnerships (16,87 per cent). However, this is not an indication that their universities are opposed to equitable partnerships; for example, a respondent who chose those two answer options explained that 'we want to ensure value to both sides of the partnership but know that will fluctuate over the course of a partnership or activity' (P81). An interesting view that was sceptical of equality was expressed by P32, who is responsible for partnership management at a university in the Asian and Middle Eastern world region:

I think it is very difficult to be truly equal partners if the two universities are substantially different. ... In my (admittedly quite limited) experience so far, this has not meant that the larger, more well-funded, well-reputed, etc. universities take advantage of their partners. On the contrary, as a young and small university that stands at the beginning of its serious internationalisation efforts, we have benefited from the experience, expertise, and access to resources of our partners and I am not sure if we always were able to provide similar benefits to our partners. This is, of course, not equal.

The majority of respondents (55,42 per cent) revealed that it is important to their universities that the benefits of partnerships are equally shared (figure 1). P1 remarked: 'Universities should come up with a model that will ensure that partnerships benefits are shared equally'. More than one-third (39,76 per cent) of participants opined that equal partnership contributions are important for their institutions. However, neither equality of benefits nor of contributions are central themes emerging from the qualitative data emanating from the question, whereas there is cogent support for flexibility in both partnership benefits and contributions. A central theme emerging in the context of partnership benefits and contributions is that universities strive for a balance, as expressed by P12: 'We prefer partnerships where contributions and benefits are well balanced'. This, however, is not understood numerically: 'equality should not be measured by absolute figures' (P55), but, as P75 indicated, 'the outputs/outcomes do not need to be the same for each partner but the partner needs to feel that they are satisfied with what they are getting from the relationship'.

Communication about equality is valued by many of the respondents' universities, with 46,99 per cent of respondents indicating that they discuss the issue of equality openly and frankly with their partners (see figure 1). However, only a few comments related to active efforts to achieve equality through partnership management. Only one respondent remarked more generally 'that the creation of equality is supported through partnership management tools' (P19), whereas another participant alluded to the importance of joint decision-making (P32).

While only a few respondents (13,25 per cent) conclude that their universities lost important partners because the respective partnerships were not equal, a theme on the diverse adverse effects of inequalities emerged. P65, who hails from Latin America and the Caribbean, remarked that—

many potential relations with universities from Australia, Canada, the US and Spain are based not [on] true cooperation and exchange, but [on] their goals of student recruitment and selling academic services, which limits the possibility of establishing partnerships.

Nevertheless, respondents from the Global North often expressed sensitivity to the differentiated nature of equality concerns. One North American respondent remarked that—

in our view of equality in partnership, we are very aware that we are in a privileged position. So, equality does not necessarily mean contributing equally to the partnership but recognizing that different partners have different things to contribute to benefit the partnership. (P88)

(b) Personal views on equality in bilateral higher education partnerships

The second part of the survey, which explored personal views (or the lack thereof) on equality in bilateral higher education partnerships, provided valuable insights.

- *Personal understanding of equality in international bilateral university partnerships*

In an open-ended question, respondents were asked to state their personal understanding of equality in international bilateral university partnerships. No answer was received. This is an important finding in itself, as it suggests that there may presently be no shared understanding of the concept, and that respondents were not confident about responding. It thus appears that, without having a clear conception of its meaning, participants may have expressed perceptions about equality in the other questions.

- *Views on equality as a fundamental principle underlying international bilateral university partnerships*

Respondents were asked whether they considered equality to be a fundamental principle underlying bilateral international higher education partnerships, and they responded as follows:

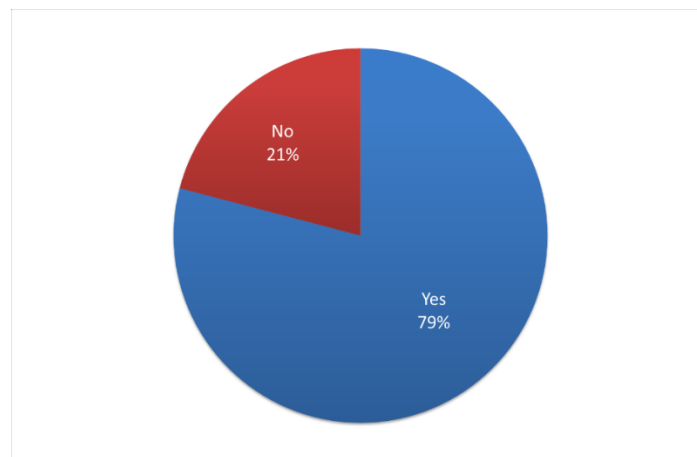


Figure 2: Participants' views on whether equality is a fundamental principle underlying international bilateral university partnerships

The data revealed that participants from the world regions have different views, when looking at aggregate data, although none are negative:

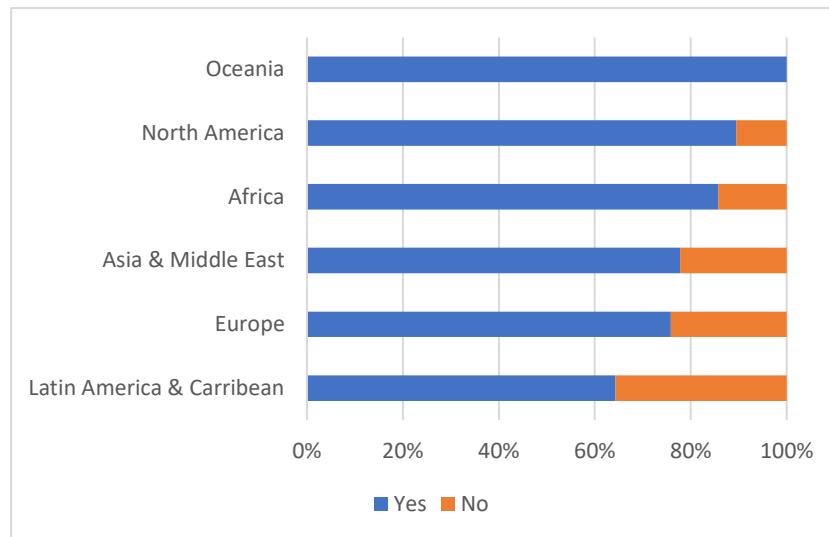


Figure 3: Views on whether equality is a fundamental principle underlying international bilateral university partnerships, by world region

The least acceptance of the concept is found in Latin America and the Caribbean, although 64.3 per cent of respondents from this world region support it. Lower than average support for the principle also prevails in Europe (75,9 per cent) and in Asia and the Middle East (77,8 per cent).

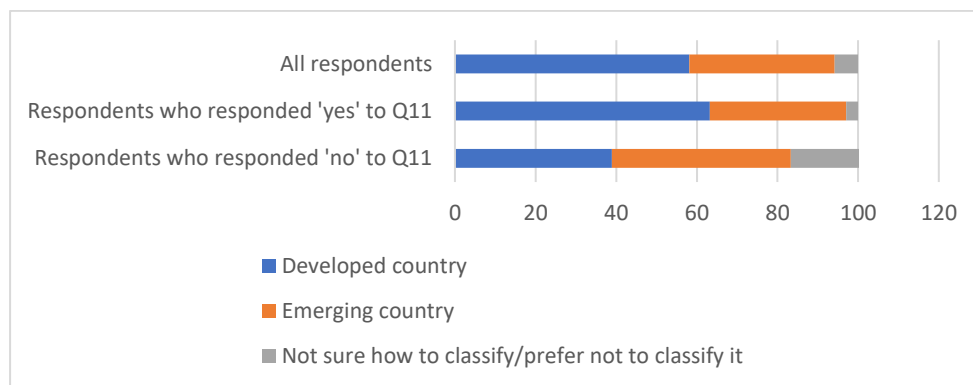


Figure 4: Views on whether equality is a fundamental principle underlying international bilateral university partnerships, by country characteristics

Another observation is that of the sceptics who reject equality as a fundamental principle, 44,44 per cent classified the country in which their university is located as emerging, whereas only 38,89 per cent classified it as developed. This compares to 58,14 per cent of respondents

who agree with equality as a fundamental principle relating to partnerships hailing from countries which they characterise as developed, whereas only 33,82 per cent characterise their country as developing. This means that the percentage of participants who agree with equality as a fundamental principle relating to bilateral international university partnerships is at face value higher in countries which respondents classify as ‘developed’.

- *Reasons why equality should not be regarded as a fundamental principle underlying international bilateral university partnerships*

To gain an understanding of why a minority of SIOs disagree with the concept of equality, those who had indicated that they do not support the notion that equality is a fundamental principle underlying international bilateral university partnerships were asked to provide reasons for this view. The predefined answer options, which were available in addition to the opportunity to comment, were chosen by respondents with the following frequencies:

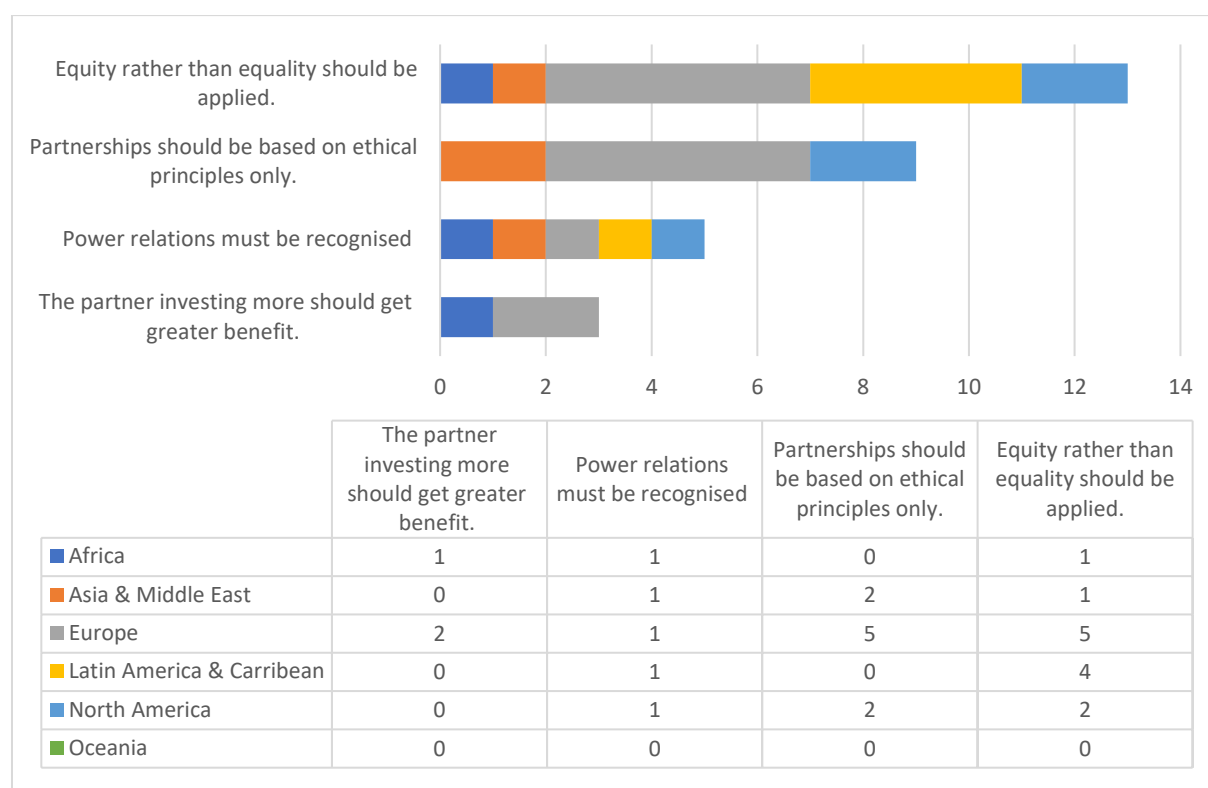


Figure 5: Responses to question ‘Why should equality in your opinion not be regarded as a fundamental principle underlying international bilateral university partnerships?’

The data indicates that the majority of respondents in this group do not have a problem with fairness, but disagree with symmetrical conceptions of equality. 81,25 per cent stated that they disagree with the notion of equality because they would want to apply the principle of equity rather than equality to partnerships. It was apparent that some did not have a clear understanding of equality. For example, P17 asked in his response:

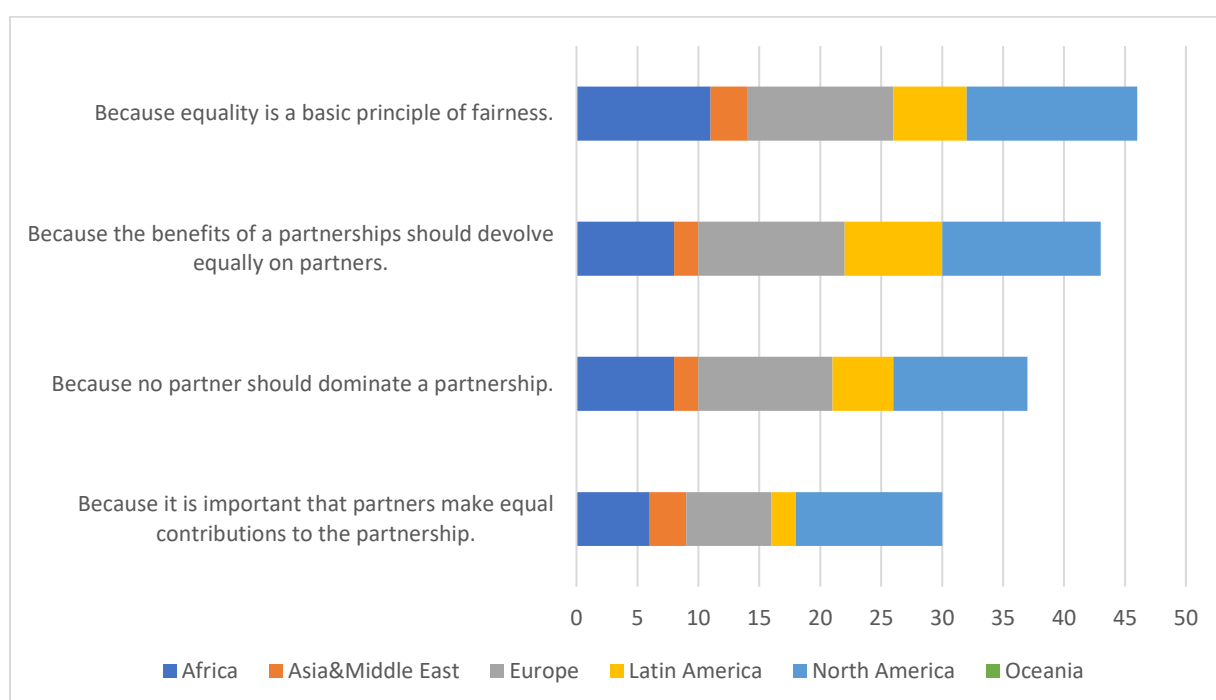
What is the definition of equality? Should each partner have the same share of contribution, resources, students, staff in the joint projects? I do not share this opinion, as an unbalanced partnership might have (comparable or even equal) benefits for both sides as well.

Amongst respondents disagreeing with equality as a principle, there is broad support (56,25 per cent) for the view that it suffices if partnerships are based on ethical principles. P67 stated that ‘I feel that certain principles should be applied to all partnerships eg ethics of working with partners; relationship building between partners. I am against the idea of dominating partners who only form partnerships to use others to achieve their personal goals’. P72 explained that ‘I believe that partnerships should be based on ethical principles and transparency. Equality is simply not possible in some situations due to significant differences in resources and ranking.’

The support for the statements that equality would not be endorsed as a principle because ‘it is necessary to recognise power relations in partnerships, it can be justified for one partner to have influence on partnership decision making and a greater share in the partnership benefit’ or because ‘a partner to a partnership who invests more in a joint effort should be entitled to a greater share in the partnership benefit’ was not broad. 31,35 per cent and 18,75 per cent respectively of those who disagree with equality as a principle affirmed them. P61 contended: ‘The focus should not be on equality as universities in the North would never be equal with those in the South in many areas.’

- *Reasons why equality should be regarded as a fundamental principle underlying international bilateral university partnerships*

The respondents who agreed that equality should be regarded as a fundamental principle underlying international bilateral university partnerships were asked to provide their reasons. Predefined answer options were provided, as well as space to comment. The responses are summarised in the graph below:



	Africa	Asia&Middle East	Europe	Latin America	North America	Oceania
Because it is important that partners make equal contributions to the partnership.	6	3	7	2	12	0
Because no partner should dominate a partnership.	8	2	11	5	11	0
Because the benefits of a partnerships should devolve equally on partners.	8	2	12	8	13	0
Because equality is a basic principle of fairness.	11	3	12	6	14	0

Figure 6: Responses to question ‘Why do you consider equality to be a fundamental principle underlying bilateral university partnerships?’

The statement that equality is a basic principle of fairness found the broadest acceptance: it was supported by 46 respondents (70,77 per cent). P26 remarked that ‘fairness is the place to begin to try to understand what the benefits for each might be even if asymmetrical’. Besides, there was broad agreement with the notion that partnership benefits should devolve equally on partners (66,15 per cent), but lesser backing for the idea of equal contributions (46,15 per cent). ‘Contributions and Benefits can be of a very different kind, but in the end, it is important that all Partners consider their contributions and benefits as equal and that they agree on them before’, commented P62.

56,92 per cent of respondents stated that they supported the statement that ‘no partner should dominate [the] partnership’. This resonates with the theme that equality prevents exploitation in partnerships, that is ‘the dominant partner exploiting the resources provided by the other partner’ (P31). Another theme emerging from comments is that ‘equality assures that the partnership (and gains from the partnership) are more sustainable’ (P21) and ‘it helps the relationship last’ (P7). Furthermore, the importance of mutual respect is emphasised by respondents (P24, P82 and P85) as a reason for equality. However, in the qualitative data emerging from this question the uncertainty about the meaning of equality reverberates, with one respondent stating that ‘[w]hat an equal footing means to one though may be different to the other’ (P82).

- *Respondents’ views on whether international bilateral university partnerships, as presently construed, are truly equal*

Respondents were requested to indicate on a Likert scale whether, in their view, international bilateral university partnerships as presently construed are truly equal. The overall perception emerging from the quantitative analysis is that there is generally a sense that they are truly equal, indicated by a mean of 6. The results of the analysis appear in the table below:

Table 3: Personal views on equality in higher education partnerships

	N	Mean	Standard Deviation	Minimum	Maximum
Africa	10	5.00	1.700	1	7
Asia and the Middle East	6	7.33	1.033	6	9
Europe	17	5.24	1.715	3	9
Latin America and the Caribbean	7	6.14	1.952	4	9
North America	14	5.71	2.054	2	9
Oceania	1	5		5	5
Total	55	1.838	.248	1	9

* 95% probability of a statistically significant difference ($p \leq 0.05$)

highest mean score

African respondents, as well as respondents from Latin America and the Caribbean, harvested notably stronger views on equality compared to their counterparts in other parts of the world. The one-way ANOVA analysis revealed that the notable perception of African stakeholders, as well as Latin American and Caribbean stakeholders responsible for partnership management, that partnerships as presently construed are not as equal as they are perceived to be by their counterparts in other world regions is not statistically significant. However, the nil hypothesis could not be refuted because the p-value is equal to 0.164.

From the qualitative data it emerged that respondents in those world regions (ie Africa and Latin America) perceive South–South collaboration as more equal. P12, who hails from Latin America, stated that:

Similar social contexts give universities similar goals and strategies that are easily complemented or reciprocal and that can generate ‘equivalent’ value for the parties. This is less evident in north-south relations where goals can differ from collaboration to just recruitment, for instance.

Participants differentiate between the diversity of realities in the global partnership landscape. ‘There are certainly many partnerships that are very close to equal and many that are very unbalanced’ (P89). However, there are clear differences of opinion evident in the responses.

On the one hand, there is a sense that ‘they tend to be more equal than not’ (P30). On the other hand, some take an incredulous view: for example, P14 states that ‘in reality they are not equal although they should be.’ Many respondents recognise that ‘it depends on many factors’ (P35), and that ‘there is a difference between perceived equal compared to actual equal’ (P75).

In contrast to the indication by the quantitative data, narratives of inequality emerge strongly from the qualitative data. Observations include ‘they are usually not equal’ (P90), ‘in reality they are not, albeit they should be’ (P14) and that ‘most bilateral partnerships are not designed mindfully, thus they reproduce disparities’ (P20). Many respondents have very different views. A strongly emerging theme is that inequalities prevail in partnerships encompassing different contexts. P63 opined that ‘many international academic partnerships between HEIs in developed and developing nations often tend to be unequal with regard to strategic planning and decision-making related to goals and outcomes of the partnership’.

Some respondents observed a change in equality dynamics. P82 expressed that ‘the construct of equality in international partnerships is an evolving construct’. A narrative that emerges from the data is that it is changing. P26, hailing from Latin America, noted:

I think it’s changing. A few years ago, many countries considered Latin America as a recruitment destination. Partnerships were seen as transactional. Now, not only are the developed countries realising that these countries have a lot to offer academically, but Latin American countries are ALSO realising it. So the partnerships are becoming more and more balanced.

- *Yes or no questions on potentially critical issues identified in the literature*

To gain insight into central assumptions on factors which have a critical bearing on the issue of whether partnerships are equal, two ‘yes or no’ questions were asked. First, it was asked whether equality is an issue which predominantly arises in bilateral international university partnerships between higher education institutions of substantively differing ranking positions, or whether it is an issue which predominantly arises in partnerships between higher education

institutions where one partner is located in a developed country and the other partner in an emerging country.

The overwhelming majority (77,19 per cent) do not consider equality to be an issue which predominantly arises in partnerships between institutions of substantively different ranking positions. However, different perceptions prevailed in Africa and Latin America, in that more respondents from those regions (38 per cent) felt, compared to their counterparts in the rest of the world, that equality is an issue which predominantly arises in bilateral international university partnerships between higher education institutions of substantively differing ranking positions. This is indicated in the graph below:

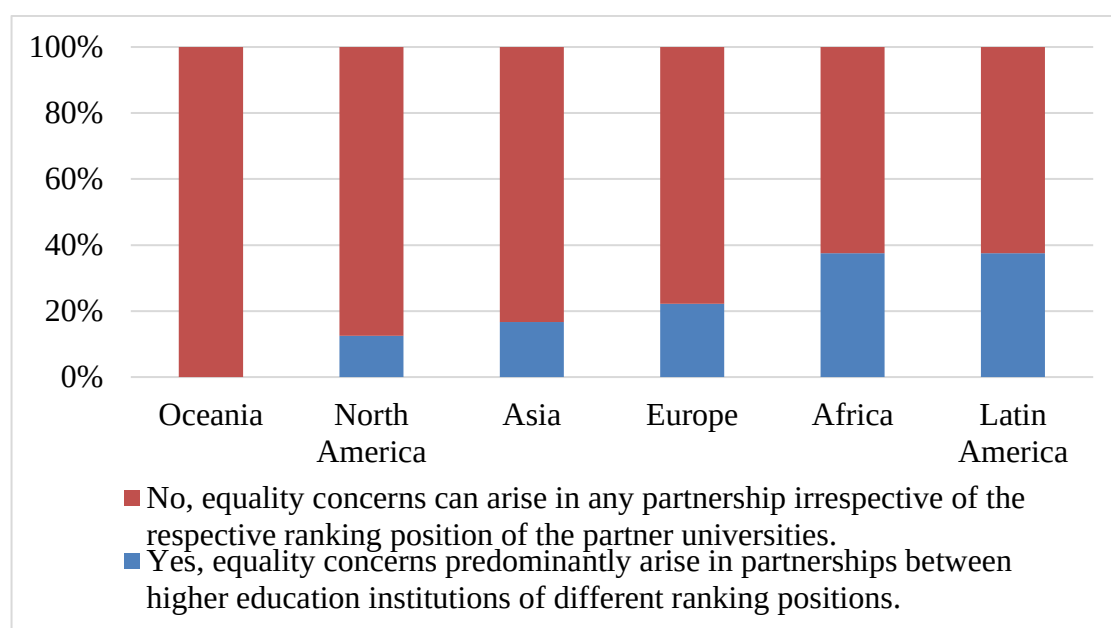


Figure 7: Responses to question 'Do you consider equality as an issue which predominantly arises in international bilateral university partnerships between higher education institutions where one partner is located in a developed [country] and the other partner in an emerging country?'

While views as to whether equality is an issue which predominantly arises in international bilateral university partnerships between higher education institutions where one partner is located in a developed country and the other partner in an emerging country were evenly

balanced, there are distinct differences in the perceptions of respondents located in different world regions. Latin American and African respondents were predominantly of the view that this constellation results in equality concerns (75 per cent and 78 per cent respectively). This view was not shared by their European counterparts (only 28 per cent agreed), whereas there was an even split of opinion in Asia and North America.

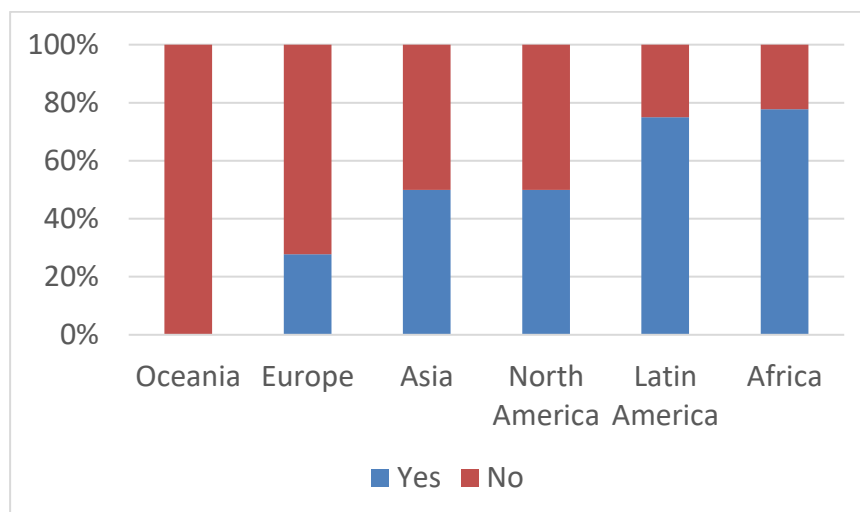


Figure 8: Responses to question 'Do you consider equality as an issue which predominantly arises in international bilateral university partnerships between higher education institutions where one partner is located in a developed country and the other partner in an emerging country?'

- *Views on the most common causes for a lack of equality in partnerships (Q19)*

A central concern of the study was understanding the causes for a lack of equality. Respondents were presented with a number of predefined answer options, and provided with an opportunity to comment. The frequencies with which respondents chose answer options are indicated in the graph below:

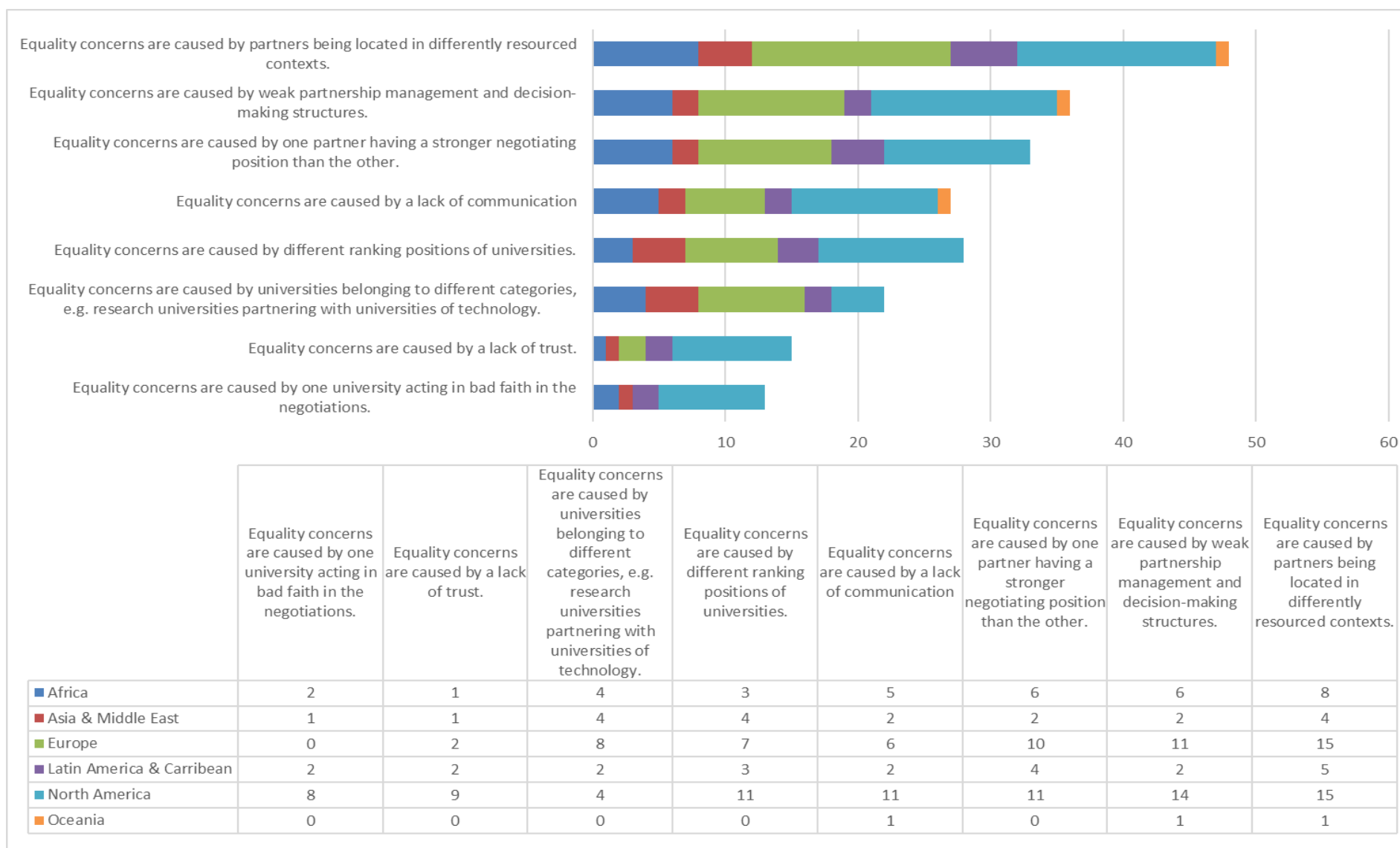


Figure 9: Responses to question 'What are in your view the most common causes for a lack of equality in partnerships'?

81,3 per cent of respondents were of the view that equality concerns are caused by ‘universities being located in differently resourced contexts’, which includes differences in ‘country context, reputation and population served’ (P12). Weak partnership management and decision-making structures are relevant causes in the view of 62,71 per cent of participants. In addition, ‘normally the university in the developed country is the responsible partner for the management of the budget for the cooperation and that give[s] them unequally more power than the partner in developing countries’ (P29). 55,93 per cent indicated that ‘one partner having a stronger negotiating position than the other’ is a cause, which can stem from ‘financial resources and quality facilities’ (P84). Lack of communication was identified by 47,46 per cent as a cause, and confirmed by qualitative data through statements such as: ‘Open communication is really important. Many a time there may be different understanding of issues being agreed upon’ (P40).

Less support was indicated for reasons such as universities belonging to different categories, eg research universities partnering with universities of technology (37,29 per cent), a lack of trust (25,42 per cent) and one party acting in bad faith in negotiations (22,03 per cent). Additional themes which emerged from the qualitative data were ‘language barriers’ (P8 and P22), ‘universities not knowing what they can actually offer to others’ (P26), a ‘profit-making mindset’ (P87) and ‘different approaches related to internationalisation policies and goals among institutions, countries and regions’ (P65).

- *Views on conditions which must be met for a higher education partnership to be considered as ‘equal’*

The prerequisites for equality in higher education partnerships were explored by asking the question: ‘Which conditions must be met for a higher education partnership to be considered as “equal”?’’. A number of answer options were given, as well as space to comment. Respondents agreed with answer options with the following frequencies:

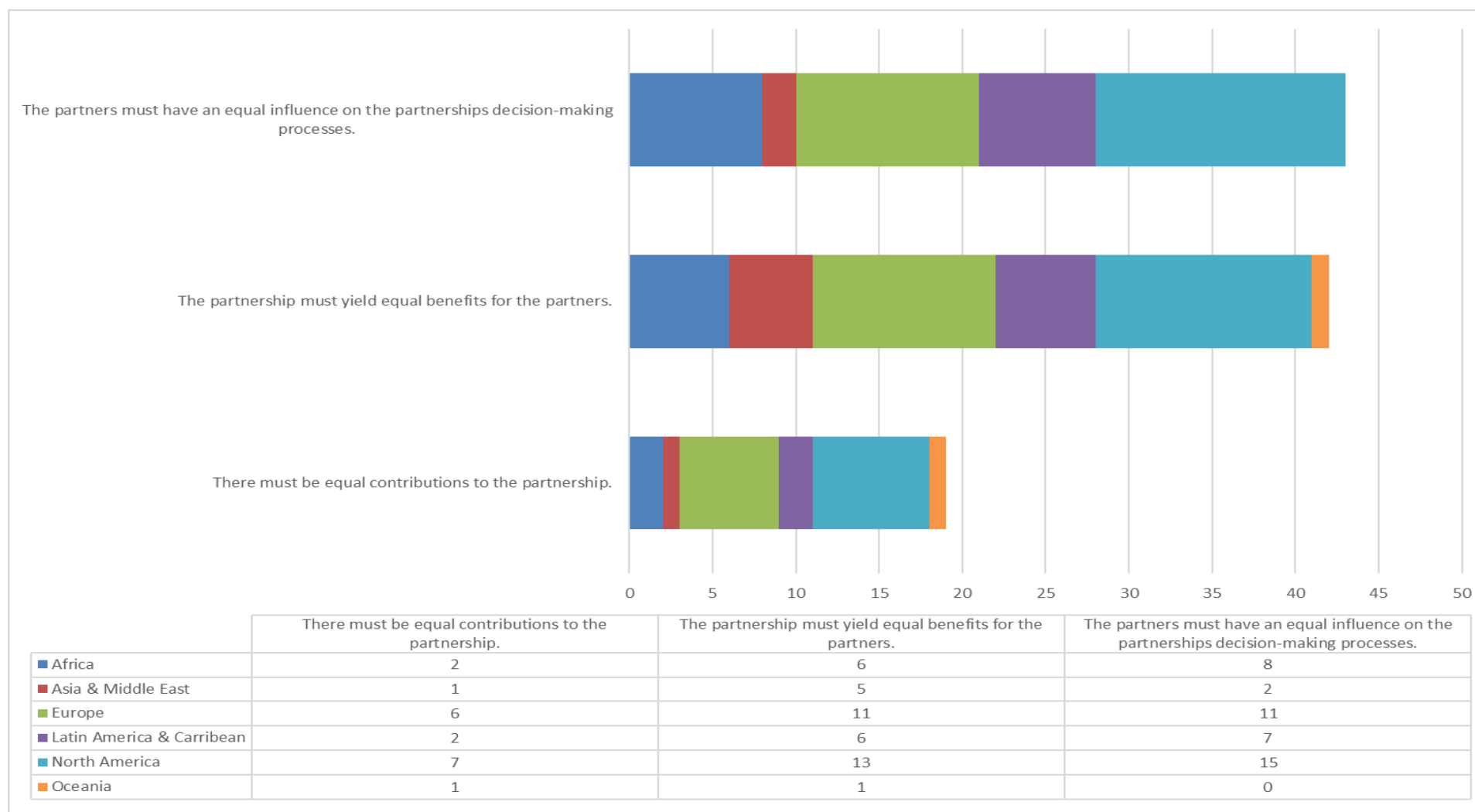


Figure 10: Responses to question ‘Which conditions must be met for a higher education partnership to be considered as “equal”?’

The vast majority (80 per cent) of participants considered it essential that '[t]he partners must have an equal influence on the partnership's decision-making processes'. This theme reflected strongly in the qualitative responses: P41 stated that 'if the partners have an equal influence on the partnership's decision making process, then the contributions (financial or otherwise) and the benefits (financial or otherwise) can vary, depending on the priorities of the partners themselves'. Broad support was also given to the notion that 'the partnership must yield equal benefits for the partners' (76,36 per cent), whereas notably fewer contributors indicated that 'equal contributions to the partnership' are required (36,36 per cent). The qualitative data indicates that equality does not translate into sameness: 'I would not consider "contributions" and "benefits" as an equation which has to be 1:1 but the meaning of "equal contribution" and "equal benefits" differs from partnership to partnership, depending on context and background' (P58).

- *Respondents' assessment of how contributions to bilateral international university partnerships should be determined*

Through a combination of predefined answer options and comments, the views of respondents about partnership contributions were explored. They were asked how, in their view, 'contributions to bilateral international university partnerships' should be determined. The graph below indicates the frequencies with which respondents chose the answer options:

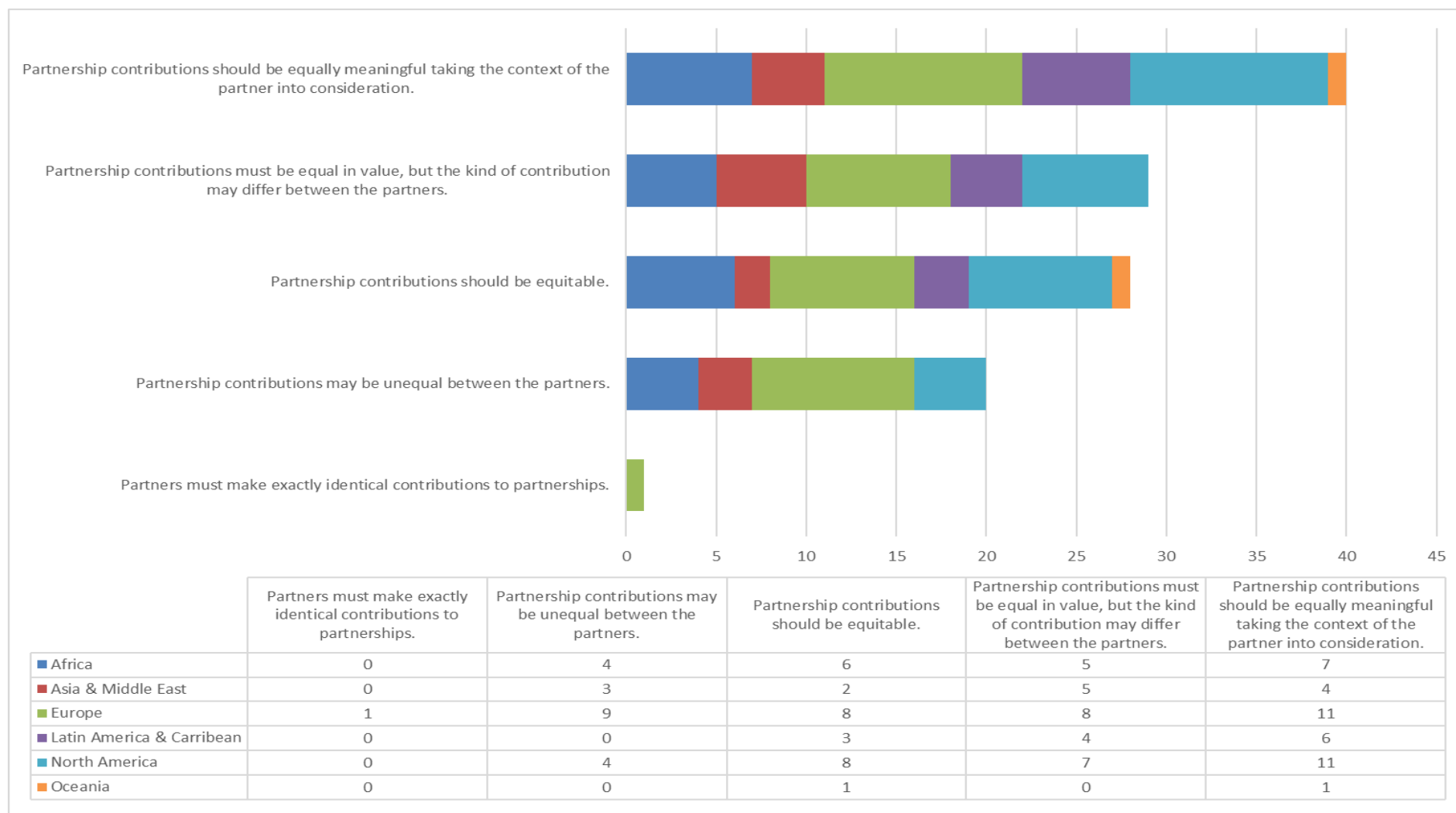


Figure 11: Respondents' views on how contributions to bilateral international university partnerships should be determined

The strongest support was enunciated for the contention that ‘partnership contributions should be equally meaningful taking the context of the partner into consideration’ (71,93 per cent). This resonates with the sentiment that ‘[p]artnership contributions should be meaningful and valuable to all partners, although there might be differences’ (P87). Notable support was also voiced for the statement that ‘partnership contributions must be equal in value, but the kind of contribution may differ between the partners’ (50,88 per cent). P12 explained that ‘each partner contribution should generate value in a similar way; contributions can be determined according to the needs of the partners as well as its strengths (what they have to offer)’.

49,12 per cent of participants agreed that partnership contributions should be equitable, which is explained in different ways. P20 explained that ‘because of incomparable positionality and resource contexts, partners may decide contributions can be varied and distinct, but the importance of an equity-driven approach is how a partnership recognises and redresses those disparities through mutual collaboration.’ A lower percentage of participants agreed that ‘partnership contributions may be unequal between partners’ (35,09 per cent). For example, ‘the partners agree on the contributions, they may not be the same equally, but it should not mean that the partner [which] bring[s] in a bigger contribution dominates the partnership’ (P40). There was hardly any endorsement (1,75 per cent) for the statement that ‘partners must make exactly identical contributions to partnerships’.

- *Participants’ views on how the benefits of bilateral international university partnerships should devolve on the partners*

Participants’ views on equality in partnership benefits were solicited through the question: ‘How should in your opinion the benefits of bilateral international university partnerships devolve on the partners?’ There was a combination of pre-defined answers and space to comment offered. Participants chose the pre-defined answer options as indicated in the graph below:

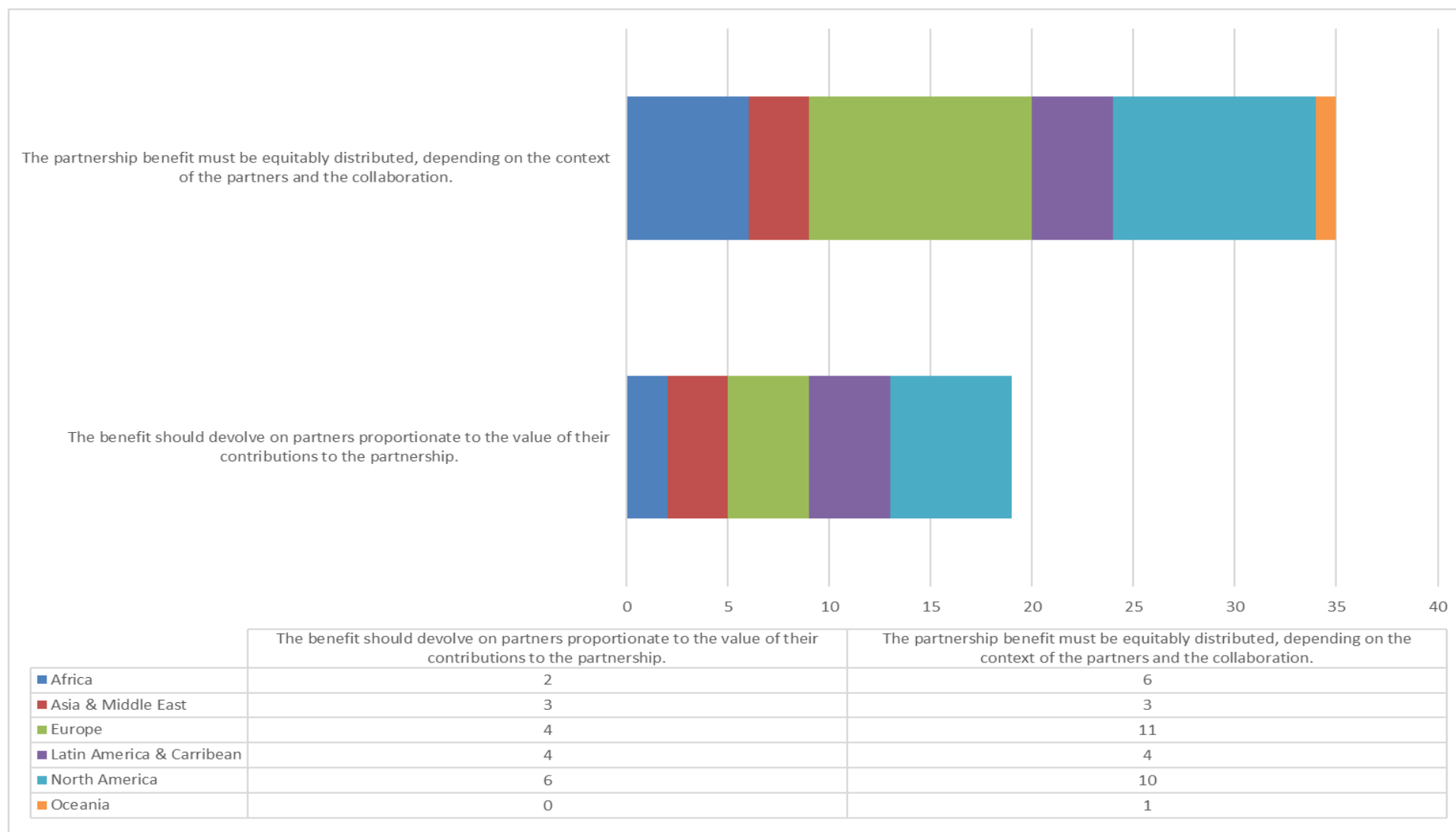


Figure 12: Participants' views on how the benefits of bilateral international university partnerships should devolve on the partners

Respondents indicated strong support (71,43 per cent) for the statement that ‘the partnership benefit must be equitably distributed, depending on the context of the partners and the collaboration’. From the comments, flexibility of benefits emerged as the central theme: ‘Both partners have to be happy with the benefits they generate’ (P33), together with the notion that ‘partnership benefits should be reflective of the goal/s that the partners are attempting to reach’ (P65).

The more symmetrically worded pre-defined answer ‘[t]he benefit should devolve on partners proportionate to the value of their contributions to the partnership’ was endorsed only by a minority (38,78 per cent). The qualitative data indicates that the different kinds of contributions should be considered: ‘benefit should be equal to intellectual contribution equalised by resources committed’ (P78).

- *Opinions on how equality in higher education partnerships can be enhanced*

Suggestions for the improvement of equality dynamics in partnerships were solicited by means of the question: ‘What could in your view be done to enhance equality in higher education partnerships?’ Both pre-defined answer options and space for comments were offered. Respondents indicated their preferences as shown in the graph below:

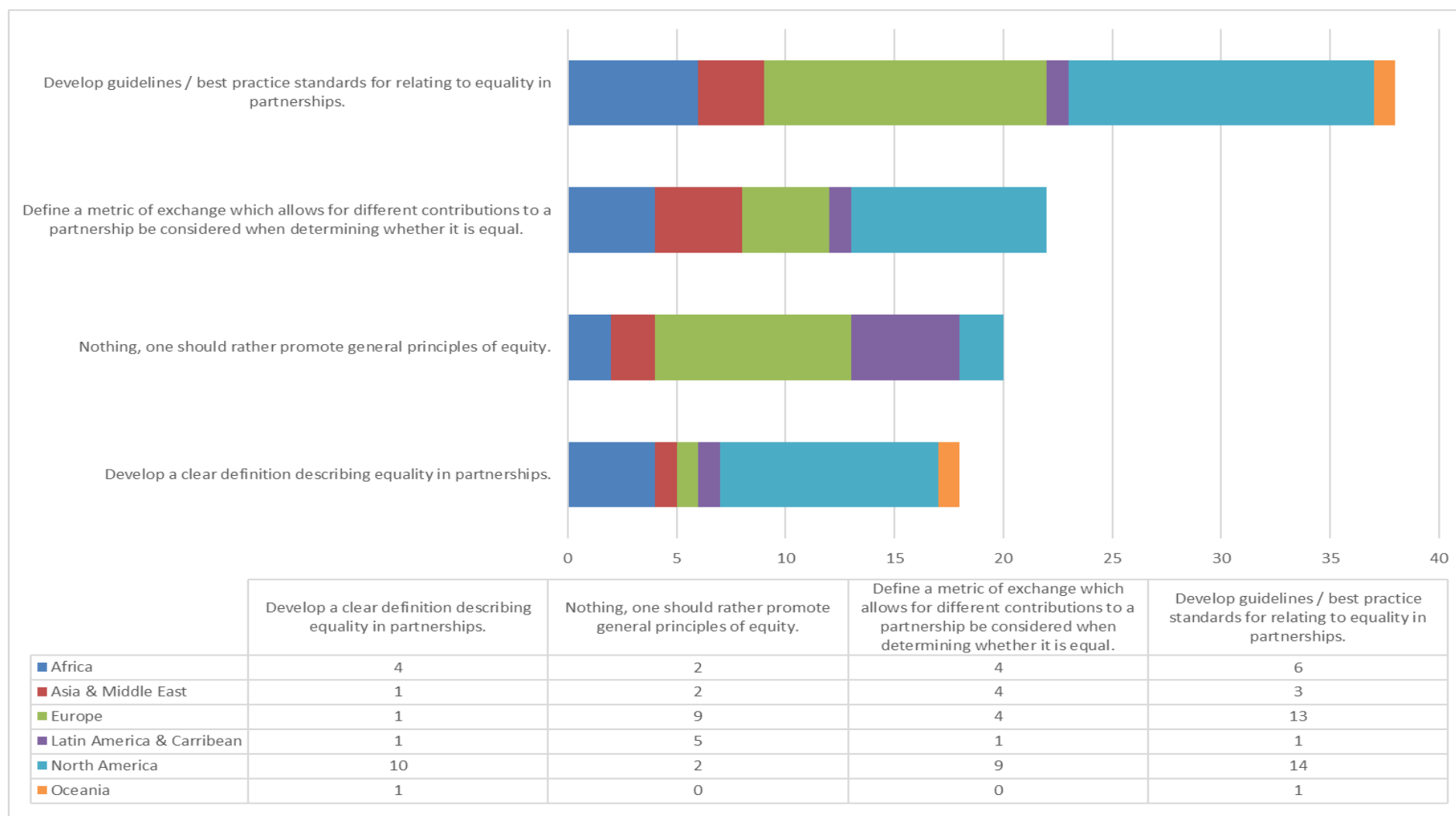


Figure 13: Opinions on enhancing equality in higher education partnerships

A clear preference of participants was to ‘develop guidelines / best practice standards relating to quality in partnerships’ (66,67 per cent). Amongst the proponents of this view, the core theme was the desirable flexibility. P12 stated:

I do not believe equality in partnerships should be standardised, it should respond to the specificities of each partnership, context and project. ... Partnerships must respond to each HEI’s needs, goals and context and definitions of what equality is may vary in each case. However, learning of best practices will always be beneficial for HEIs for the negotiation of new partnerships and how to create value even when the characteristics of the HEIs vary significantly.

Scepticism about the other proposed options prevailed. While 38,6 per cent endorsed ‘a metric of exchange which allows for different contributions to a partnership [to] be considered when determining whether it is equal’, a theme concerning its practicability emerged. ‘A metric would be nice, but likely too complex and difficult to develop, as partnerships can be unique’ (P4). ‘Developing a clear definition describing equality in partnerships’ was favoured by 31,58 per cent. The critical voices remarked that ‘a clear definition is hard to develop given the varying contexts involved’ (P41) and that ‘a general clear definition cannot be reached because this definition would be unequal in itself, if it doesn’t consider individual contexts’ (P58).

36,84 per cent of respondents preferred ‘nothing, one should rather promote general principles of equity’. Amongst those preferring this approach, the prevailing theme was that the specific partnership must be considered. ‘It very much depends on the partner universities, what they have in mind, what they want to reach, what kind of projects they would like to do’ (P35) and ‘more discussion and awareness of the contexts where partnerships are being forged’ (P40) were among the expressions of the preference for solutions on the individual partnership level.

V. Discussion

The survey clearly indicates that equality is considered important for partnerships, and widely accepted as a foundational value. Scepticism about equality as a foundational principle is limited, but more pronounced in emerging countries, especially in Latin America and the

Caribbean. Those SIOs who reject equality often do so because they consider it tantamount to sameness or formal equality. Most supporters of the minority view which rejects equality as a fundamental principle for international higher education partnerships nevertheless agree that partnerships should be equitable.

The most striking outcome of the survey was that no SIO was willing to respond to the direct question about their personal understanding of equality. This indicates that the respondents are unfamiliar and to a certain extent uncomfortable with the concept. However, some respondents attempted to define equality in the context of questions which did not call for comprehensive definitions. Two proposals are particularly insightful:

I believe equality means equitable benefits and outcomes, shared power and influence over as well as transparency in decision-making, and collaborative contributions based on mutual values to the partnership and priorities. (P20)

An equal partnership is one where there is a mutual understanding of the vision in where the partnership is going, and what it is to achieve. An equal partnership does not have to have equal contributions or even yield equal benefits, but rather meet the expectations of each partner entering into that partnership. (P40)

The proposed conceptions indicate the desire for a shared value-foundation of partnerships. They resonate with the rejection of the notion of sameness in partnerships, which permeates the responses to the survey. Instead, respondents emphasise attributes which are considered fundamental to equal partnerships: communication, trust, respect and flexibility. Equality of benefits is broadly supported; there is less, but still significant, support for equality of partnership contributions. However, both are generally not understood numerically, but in a sense that they have to be balanced and contextualised.

Generally, there is a perception that equality is achieved in higher education partnerships, but challenges remain, particularly between unequal universities in divergent contexts. The majority of Latin American and African respondents perceived particular challenges in

partnerships between universities in different world regions. There is a more pronounced sensitivity to equality concerns in Africa as well as in Latin America and the Caribbean. There are no significant differences in perception between universities of different ranking positions.

VI. Conclusion

While there is a broad acceptance of equality as a foundational value relating to partnerships, there is little clarity amongst the SIOs who participated in the survey about the meaning of the concept. Many even doubt that it is possible to clearly define it, but at least hope for guidelines on how it can be achieved. The survey provided valuable insights into the contemporary understanding of equality in partnerships, but also underscored the need to provide normative guidance on how the concept should be construed, particularly in divergent contexts. It must be emphasised, however, that these insights remain preliminary, and limited to the sample who participated in the survey, and that further studies should be conducted to test these initial findings.

CHAPTER FOUR: MINI CASE STUDIES

I. Introduction

To gain a deep understanding of the phenomenon under scrutiny, that is, equality in higher education partnerships between universities in divergent contexts, four mini case studies have been conducted. Case studies assist in understanding complex social phenomena and allow researchers to ‘retain a holistic and real-world perspective’.⁵⁸⁶

Case studies are philosophically versatile and can be conducted in many different ways.⁵⁸⁷ They allow for exploring a phenomenon from a variety of perspectives, using multiple data sources.⁵⁸⁸ This research method ‘has grown in reputation as an effective methodology to investigate and understand complex issues in real-world settings’.⁵⁸⁹ For this chapter, a qualitative, comparative multi-case study approach has been chosen, which allows for studying the phenomenon in-depth, considering its appearance in specific contexts.⁵⁹⁰ The recourse to a variety of data sources provides the opportunity to gain a balanced understanding because of the use of a variety of sources of evidence.⁵⁹¹

Case studies are applied in many disciplines; researchers using this method have a broad spectrum of ontological and epistemological convictions. Consequently, they have been defined in manifold ways in the literature. For example, Merriam and Tisdell understand them as ‘an in-depth description and analysis of a bounded system’.⁵⁹² Stake considers them to be ‘the study of the particularity and complexity of a single case, coming to understand its activity within

⁵⁸⁶ Robert K Yin *Case Study Research and Methods* 5 ed (2014) 16.

⁵⁸⁷ Helena Harrison et al ‘Case study research: Foundations and methodological orientation’ (2017) 18 *Forum Qualitative Sozialforschung* 18.

⁵⁸⁸ Pamela Baxter & Susanna Jack ‘Qualitative case study methodology: Study design and implementation’ (2008) 13 *The Qualitative Report* 554 at 554.

⁵⁸⁹ Harrison et al op cit note 587.

⁵⁹⁰ Baxter & Jack op cit note 588 at 554.

⁵⁹¹ Khairul BM Noor ‘Case study: A strategic research methodology’ (2008) 5 *American Journal of Applied Sciences* 1602 at 1603.

⁵⁹² Merriam & Tisdell op cit note 570 at 37.

important circumstances’.⁵⁹³ In contrast, Yin refers to them as ‘an empirical inquiry that investigates a contemporary phenomenon (the “case”) in-depth and within its real-world context particularly suited to situations in which it is impossible to separate the phenomenon’s variables from their context.’⁵⁹⁴ Three basic approaches to qualitative case studies can be distinguished.

First, Yin has developed his methodology from a postpositivist paradigm,⁵⁹⁵ principally based on a realist perspective.⁵⁹⁶ Consequently, he advocates that a formal, conceptual framework should be used for case studies and that the inquiry should be based on propositions that are tested against the collected data. Central to his approach is the emphasis on methodological rigour.⁵⁹⁷ Underlying his approach to case studies is a twofold definition:

1. A case study is an empirical inquiry that

- investigates a contemporary phenomenon (the ‘case’) in depth and within its real-world context, especially when
- the boundaries between phenomenon and context may not clearly be evident.

2. A case study inquiry

- copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as one result
- relies on multiple sources of evidence, with data needing to converge in a triangulating fashion, and as another result
- benefits from the prior development of theoretical propositions to guide data collection and analysis.⁵⁹⁸

A central feature of Yin’s approach is the design of case studies, which should be defined at the outset of a study.⁵⁹⁹ Yazan elucidates that case study research undertaken from a Yinian

⁵⁹³ Robert E Stake *The Art of Case Study Research* (1995) vii.

⁵⁹⁴ Yin op cit note 586 at 16.

⁵⁹⁵ Sheryl L Boblin, Sandra Ireland, Helen Kirkpatrick & Kim Robertson ‘Using Stake’s qualitative case study approach to explore implementation of evidence-based practice’ (2013) 23 *Qualitative Health Research* 1267 at 1268.

⁵⁹⁶ Yin op cit note 586 at 17.

⁵⁹⁷ Ibid.

⁵⁹⁸ Ibid at 16–17.

⁵⁹⁹ Bedrettin Yazan ‘Three approaches to case study methods in education: Yin, Merriam and Stake’ (2015) 20 *The Qualitative Report* 134 at 140.

perspective comprises five components, namely, ‘a study’s questions; its propositions, if any; its unit of analysis; the logic linking the data to the propositions; and the criteria for interpreting the findings’.⁶⁰⁰

Second, Merriam and Tisdell place the focus on the unit of analysis, the case.⁶⁰¹ They understand case studies as ‘an in-depth description and analysis of a bounded system’.⁶⁰² Harrison et al describe this approach, which was initially formulated by Merriam⁶⁰³ as not being as structured as Yin’s; however, it is also based on a well-organised process of inquiry.⁶⁰⁴ The fundamental assumption is ‘that reality is socially constructed; that is, there is no single, observable reality. Rather, there are multiple realities or interpretations of a single event.’⁶⁰⁵ Merriam observes that ‘the process of conducting a case study is more art than skill, the success of which is somewhat dependent on the sensitivity, tolerance and flexibility of the researcher.’⁶⁰⁶

Third, Stake argues from a constructivist paradigm and emphasises the need to provide a thick narrative of the case, which allows for discovery, inductive exploration and holistic analysis.⁶⁰⁷ His approach to case studies is based on the assumption that ‘multiple views of the case need to be represented.’⁶⁰⁸ In pursuit of understanding, the researcher interacts with the case; the process is influenced by his or her positionality and values. Stake considers case study to be ‘the study of the particularity and complexity of a single case, coming to understand its activity within important circumstances’.⁶⁰⁹ Stake places emphasis on the understanding and

⁶⁰⁰ Ibid.

⁶⁰¹ Merriam & Tisdell op cit note 570.

⁶⁰² Ibid at 37.

⁶⁰³ Sharan B Merriam *Qualitative Research and Case Study Applications in Education* (1998).

⁶⁰⁴ Harrison et al op cit note 587.

⁶⁰⁵ Merriam & Tisdell op cit note 570 at 9.

⁶⁰⁶ Sharan B Merriam ‘The case study in educational research: A review of selected literature’ (1985) 19 *Journal of Educational Thought* 204 at 214.

⁶⁰⁷ Harrison op cit note 587.

⁶⁰⁸ Stake op cit note 593 at 108.

⁶⁰⁹ Ibid at xi.

interpretation of the unique case. It is essential for the researcher to ‘enter the scene with a sincere interest in learning how [actors] function in their ordinary pursuits and milieus and with a willingness to put aside many presumptions while we learn.’⁶¹⁰ Central to conducting case studies are interviews, which Stake understands as the ‘main road to understanding multiple realities’.⁶¹¹

Because of the wide variety of approaches and paradigmatic lenses used in the collection and evaluation of data in case studies, it was necessary to make a conscious decision about the approach to be used for this multi-case study. The choice of method was informed by the epistemological stance of the researcher and the philosophical underpinnings of the study. The researcher conducted case studies from an interpretivist paradigm. Interpretivism views the world as socially constructed by human actors. In order to understand the world, one needs to consider it ‘from a subjective point of view within the frame of reference of a participant’.⁶¹²

The following sub-question to the study’s main research question will be answered through the mini case studies: ‘What are the present practices and conceptualisations of equality in higher education partnerships, specifically in those between higher education institutions of different strength?’⁶¹³

At the outset, it was essential to define the unit of analysis.⁶¹⁴ For this chapter, it is ‘the present practices and conceptualisations of equality in higher education partnerships, specifically in those between higher education institutions of different strength’. This informed the selection of the cases for the study. Practical limitations indicated that the selected

⁶¹⁰ Ibid at 1.

⁶¹¹ Ibid at 64.

⁶¹² Shana R Poneis ‘Using interpretive qualitative case studies for exploratory research in doctoral studies: A case of Information Systems research in small and medium enterprises’ (2015) 10 *International Journal of Doctoral Studies* 535–550.

⁶¹³ See chapter 1 section V.

⁶¹⁴ Ibid at 539.

partnerships connect higher education institutions in Europe and Southern Africa, or within Europe. In general, the selected partnerships connect well-resourced, well-established universities and relatively less well-resourced, less well-established universities. In addition, a partnership between two European universities was purposefully selected.

In the case studies, a variety of stakeholders in bilateral university partnerships from both partner institutions were engaged in semi-structured interviews, which were tape-recorded and transcribed. Where possible, at each participating institution, interviews were conducted with the senior international officer (SIO), one representative of high-level university leadership (President or Vice-Chancellor or another member of executive management), one representative of responsible academic leadership (Provost or Deputy Vice-Chancellor Academic or Dean), as well as an administrative officer and one academic involved in the partnership. Adaptations to this general principle were made to accommodate the particularities of institutions and partnership structures. Additionally, available primary documents relating to the partnerships were consulted.

To ensure confidentiality, the case studies are not identifiable by the name of the partner institutions or by the name of the stakeholders participating in the semi-structured interviews. Both are kept confidential. For the purposes of archiving this, evaluation and writeup identifiers were assigned to the partnerships and the universities involved in them. The respondents at the universities participating in the case studies are referred to by functional job descriptions as would be used in the South African context, eg ‘executive’, ‘Deputy Vice-Chancellor’, ‘Dean’, ‘senior international officer (SIO)’, ‘administrative officer’ or ‘academic’.

The first important step was the selection of the cases to be included. A severe limitation was obtaining consent from institutions to participate in the study. While more than ten partnerships were identified, and communication took place with a view to conducting case studies, only four case studies could be implemented. Because of the researcher’s geographical

location in Southern Africa, the original idea was to focus on case studies involving Southern African and European universities. SIOs were approached to establish contact and explore the possibility of participation in the study. Through them, gatekeeper permission was typically sought from heads of institutions or relevant delegated office bearers (bearing job titles such as Vice-Chancellor or Deputy Vice-Chancellor) to give consent for their institutions to participate. Once they had consented, informed consent was sought from every participant before conducting the interviews.

There was a general openness to participation, but various challenges were encountered in obtaining consent from European partners after contact was established through Southern African universities. Several identified case studies had to be abandoned because the European partners refused to consent to the research being conducted. The difficulty in obtaining consent from Northern partners may be indicative of a lack of preparedness to engage with the issue of equality. This will be discussed further in the concluding section of this chapter, which will triangulate the difficulty experienced with the perceptions of equality in Europe exposed through the interviews conducted.

To obtain a good understanding, a *Verstehen*,⁶¹⁵ of the equality in the selected case studies, it was necessary to position them in the context of the internationalisation and partnership processes of the respective universities. This allowed the researcher to gain trustworthy insight into equality dynamics in the partnerships under scrutiny. The interpretivist approach to conducting the case studies enabled the researcher to obtain meaningful interpretations of the partnerships, which have been constructed and produced by university stakeholders who have contributed to their initiation. The study acknowledges that the researcher's personal experience

⁶¹⁵ Thomas A Schwandt 'Constructivist, interpretivist approaches to human inquiry' in Thomas A Schwandt *Handbook of Qualitative Research* (1994) 118 at 223.

of being responsible for managing higher education partnerships at universities in the developing world is a factor in conducting the research that needs to be acknowledged. The conscious choice of accepting subjectivity allowed the researcher to draw from the personal understanding gained through many years of partnership management into the interpretation of the equality dynamics in the cases. To provide for authenticity, a thick narrative of stakeholder perceptions of equality in the selected cases is provided, which provides insight into equality dynamics in the selected higher education partnerships. While the insight gained from obtaining a deep understanding of equality in the selected bounded systems (partnerships) cannot be generalised, it will assist in the construction of an appropriate conception of equality for higher education partnerships.

In addition to interviews, publicly available documents, as well as those disclosed by participating universities, were consulted. To obtain a deep understanding of the context in which the universities are embedded, background information was obtained from writings relating to the respective education systems.

For each case study that is discussed below, the reasons for its inclusion in the sample and the entry process into the universities are briefly set out. This is followed by a short exposition of the history, character and context of the respective universities, with specific reference to their internationalisation and partnership strategies. Next, the history and specific tenets of the collaborations are sketched. Thereafter, the interviewees' perceptions of equality are outlined and contextualised. This is followed by a discussion of equality in the partnerships.

II. Case study: Benelux University (BU) and Eastern University (EU)

(a) Background

This case study was purposefully selected because of its complex power dynamics. The partnership connects a university of applied sciences in a developed, high-income member state

of the European Union located in the Benelux region (Benelux University (BU)) and a research-intensive university in an Eastern European country which is a European Union member state (Eastern University (EU)). Divergent strength in this partnership is bidirectional, in that one of the universities is ranked at the lower end of the top 1 000 of global rankings, whereas the other university features only in teaching and learning rankings. On the other hand, the university which features in rankings is located in a country which has suffered from the historical disadvantage of being located on the Eastern side of the Iron Curtain which divided Europe until the end of the 1990s. The country in which EU is located has a household-income level which is approximately one-third lower than the household-income level in the country in which BU is located.

- *Benelux University (BU)*

BU was established in the 1980s as the result of a merger between several smaller institutions. Its student body of more than 25 000 students hails from approximately 150 countries. Internationalisation takes prominence in the strategy of the university and is viewed as an aspect of quality improvement. A strategic guiding document extrapolates ten elements of internationalisation, which include ‘meaningful, broad and deep international partnerships’ as a priority. Great value is ascribed to the internationalisation of learning outcomes across the institution (BUP4).

BU offers Master’s and Bachelor’s degrees, but no doctoral qualifications. Disciplines include business, public management, health sciences, IT and technology. The academic offering includes a programme in European Studies. BU does not feature in the majority of university rankings; however, it is ranked in the category ‘201 +’ in the European Teaching Rankings. The institution aspires to excel in internationalisation and focuses particularly on the internationalisation of learning outcomes. Research publications have traditionally not been a focus area for the university, but the value of research collaboration is recognised (BUP2).

A global dimension is considered an integral component of all programmes, and emphasis is placed on the acquisition of global knowledge and skills by students. The Professor of Global Learning, who is an internationally recognised expert in his field, characterised the approach to internationalisation as ‘inclusive, value-driven and focusing on global citizenship’ (BUP4). The executive interviewed stated:

We want all our students to graduate as global citizens, which means that they know the international and intercultural dimensions of their subject area, it means that they can operate in an English-speaking environment at a very high level, and it also means that every student would have had an international experience whilst studying with us. (BUP1)

Curriculum internationalisation and partnerships are highlighted as a priority in the overarching institutional strategy document relating to internationalisation. To contribute to the process of internationalisation, shortly before the interviews for this study were conducted, BU established a research group which focuses on global learning under the leadership of an internationally renowned expert in the field. All faculties have individual internationalisation strategies. Internationalisation is centrally enabled by an office which focuses on strategic partnerships and internationalisation.

Strategic partnerships are governed by a policy document, which states that the core rationale for strategic partnerships is the ‘deepening and strengthening the quality of its teaching, learning and research cooperation’, and envisages that strategic international university partnerships can enable innovation and the formation of globally competent graduates. Such partnerships would extend across faculties and address multi-dimensional objectives. Detailed criteria have been laid down for the selection of strategic university partners; however, flexibility is provided in that not all criteria have to be met for a partnership to qualify as ‘strategic’. The member of university leadership emphasised that it is intended to combine impetus from existing faculty collaboration with intentional ‘branching out’ into other partnership activities and programmes to develop strategic partnerships (BUP1).

All European strategic partners are connected in a network which is coordinated by BU. Its establishment followed the realisation that the university's strategic partnerships had the potential of developing the university into a 'network hub' (BUP1). Network cooperation, network trust and network benefits are regarded as central elements of this network.⁶¹⁶ All member universities are located in the European Union, and the individual partners in the network are also connected to BU through bilateral partnerships.

- *Eastern University (EU)*

EU is a traditional research-focused university located in an Eastern European country which today is a member of the European Union but was formerly a member of the Warsaw Pact. It is ranked in the category 801–1000 in the 2019 THE and is considered to be the second-highest ranked university in its country. EU was established shortly after the end of WWI. Academic life was severely impacted by the socialist rule of the country and the influence of the Soviet Union. A name change, which was reversed in the early 1990s, and the temporary closure of one of the faculties, affected the university in the socialist period. Today, its student population exceeds 35 000 and it has 2 000 academic staff members.

The strategic plan of the university has a free-standing goal relating to internationalisation in education. Emphasis is placed on student and staff mobility, and the university focuses on overcoming hurdles in order to achieve growth, including the limited number of programmes offered in foreign languages. The promotion of the use of foreign languages in national degree programmes is prioritised together with the enhancement of the university's foreign languages offering. However, the current strategic plan does not expressly refer to curriculum internationalisation, internationalisation at home or the acquisition of international or intercultural competencies. The 'internationalisation of internal structures' is nevertheless

⁶¹⁶ Internal strategic BU document setting out the case for the network.

considered a strategic priority, as stated in a specific strategic document about internationalisation. A central aim is to provide all students in the future with an international experience.

The university's central, self-funded international office focuses on enabling mobility, summer and winter schools (EUP2). Research collaboration is beyond the remit of this office. According to the university's Annual Report, every year the university sends more than 1 800 students abroad and welcomes close to 1 500 international exchange students. Most of them are funded by European Union programmes; in addition, the university has established an internal mechanism to support outgoing student exchanges. The university has signed more than 1 700 partnership agreements.⁶¹⁷ Faculties enjoy a high degree of autonomy in partnerships processes, and many strategic decisions relating to collaborations are taken by them, or at lower levels, resulting in a fragmented partnership landscape.

Presently, the university does not have a formal strategic document relating to international partnerships. The member of executive management emphasised that the Vice-Chancellor's office is concerned with strategic partnerships involving more than two faculties (EUP1). Geographic priorities are also set, and the SIO considers the standing and ranking of partner universities to be important; he emphasised that 'obviously, our strategy would be to sign agreements with top universities, in the ranking, which is from 1 to 1000' (EUP2). The institution is a member of two large well-established European university networks. The administrator interviewed highlighted that even the notion of having faculty-wide partnerships was relatively novel until shortly before the site visit; partnerships would have generally been located at the departmental level (EUP3). She stated:

⁶¹⁷ Institutional Annual Report.

I think that is the case for the whole University, which is very loose and I would say, each Faculty, each college, each institution has its own strategy, and own priorities, and really has different contexts, different rationalisations of internationalisation. (EUP3)

(b) Process

The entry into this partnership took place through BU. An academic staff member (BUP4) facilitated contact with the relevant stakeholders, and a member of the international team (BUP5) set up the interviews. This person, who is responsible for the coordination of European partnerships, facilitated contact with the SIO of EU, who subsequently facilitated the engagement at EU through its SIO (EUP2).

Site visits were undertaken, and semi-structured interviews were conducted at both universities, which were later transcribed and coded. At BU, it was possible to interview the leader of the study group in global learning in addition to the generally defined respondents. Site visits were undertaken to both universities to gain an understanding of their context, and the majority of interviews were conducted in-person, although it was necessary to arrange for a limited number of Skype interviews for stakeholders who were not available during site visits.

The two universities made several documents relating to the partnership available. In addition to publicly available documents, it was possible to peruse strategies, partnership evaluations as well as internal documents relating to a network set up by BU.

(c) The collaboration

The collaboration between the two universities started in the mid- to late 1990s as a mobility partnership. This early phase of the partnership is vividly recollected only by the interviewee who is a member of the executive leadership of BU (BUP1). Initially, equality challenges resulting from the different resourcing of the universities meant that BU was the institution that was predominantly sending students, whereas EU was the one predominantly receiving students (BUP1). Activities at this stage were externally funded by a foundation and focused on a single

academic department (BUP1). Donor funding was available only for the movement of students from EU to BU (BUP1): ‘The irony is, while our students were being paid [...], at that time, they were making money going there, which was wrong’ (BUP1). To achieve a balance, BU implemented a grant for exchange students from Eastern Europe, which was however fraught with challenges (BUP1): ‘The difficulty was, it wasn’t means tested, so we had people that were coming from rich backgrounds from Russia, who were getting the money, who didn’t deserve it’ (BUP1). Consequently, the support programme was abandoned (BUP1).

For some time, the partnership was championed by a retired staff member at BU, who ‘as a sort of freelancer worked with them on projects, and was sort of the connecting link’ (BUP4). However, this caused problems and ‘we have said, we don’t want this anymore, we want there to be a direct link’ (BUP5). Consequently, ‘we actually stopped signing off on his activities’ (BUP5). Other challenges for the programme included human capacity challenges at one of the faculties at BU, which resulted in it not being able to participate in as many partnership activities as desired (BUP2). Following a period of less strong association, the alliance started to flourish again. Personal contacts resulted in an administrator, who is presently responsible for international strategic partnerships, commencing a dialogue with internationalisation experts from BU and thinking about ‘what is internationalisation’ (EUP3).

When BU decided approximately two years before the case study was conducted to develop a network of strategic partners, it selected potential partners based on a set of criteria and explored the potential for collaboration with them (BUP5). BUP5 explained that ‘[o]ne of the criteria is that they must work with three or more faculties, we have lots of criteria for what makes a strategic partnership, and they tick every box’. The potential partners were visited, and the rationale and concept for the strategic partnership were explained. EUP2 recalls: ‘he [BUP5] came to visit us, with the proposal of being a part of the [...] network’. The SIO of BU noted that it ‘was a very natural progression from a long-standing partnership’ (BUP2). The

interviewees at EU were impressed with the enthusiasm expressed by the representatives of BU (EUP1). The participation in a network of universities which is coordinated by BU is viewed with excitement by stakeholders at EU. A member of the executive leadership at EU stated that it ‘provides a chance to try some new forms of cooperation, design something new, because people are closer there, then in larger networks, and ... the network is quite dynamic, flexible’ (EUP1).

However, some reservations remain. The academic leader of one faculty at BU, which is presently only involved in the partnership through student and staff exchanges, was cautious about increasing his faculty’s participation because of concerns relating to ‘work pressure and money’ (BUP3). The stakeholder emphasised the desire to broaden the range of activities to engage in research collaboration and innovative student activities but considered that it was necessary to make careful strategic decisions to avoid overcommitment (BUP3). Another stakeholder remarked that ‘it is really about trying to maintain the relationship, and showing that there is a lot of goodwill, but that there are certain obstacles which we face at the moment’ (BUP2).

The focus of the collaboration is shifting gradually from developing institutional internationalisation processes to a more inclusive research collaboration (BUP2). Regular partner visits are undertaken in both directions, which involve new stakeholders in the collaboration (BUP 5). While there is a clear commitment to retaining student and staff exchanges, the researcher observed a mutual desire to broaden and deepen the relationship by undertaking additional partnership activities.

(d) Perceptions of equality at the partner universities

- *Benelux University (BU)*

At BU, equality does not feature prominently in the thinking around partnerships. The academic internationalisation expert remarked that ‘it may not always be consciously expressed’, but ‘it would maybe be presumed, but I don’t think it would be an explicit topic’ (BUP4). The university’s policy document relating to strategic partnerships refers to communication, trust, relationship commitment, and culture as examples of ‘tangible elements of partnerships’ and elaborates on them in detail. Equality is not mentioned in the policy document, and the interviews revealed that there is no agreement within the university that equality should be considered as a foundational element of international partnerships. When stakeholders were asked whether they consider equality to be a principle underlying international university partnerships, two of the respondents at BU asked for clarification on what equality means (BUP1, BUP5). However, no interviewee rejected equality as a foundational principle. A strong endorsement of the value of equality in international partnerships was made by the academic leader, who stated that equality ‘is the basic’ (BUP3). However, he emphasised that there is in his view no ‘strong, single definition’ of equality and conceded that, in certain circumstances, one would instead look for inequality. He highlighted that strategic partnerships should not just be for the lucky few, but should ‘profit all students of the Faculty’. The office bearer also considered it essential to find the right measurement units for determining what is regarded as equal; for example, to determine the appropriate gauge for contributions of work hours. He highlighted the centrality of equality of effort, but cautioned against rendering too much support to the partner in circumstances of unequal contexts since the person considered ‘accountability towards own students’ (BUP3).

The SIO of BU referred to trust as the central tenet of equality and mentioned trust in student selection and credit transfer programmes (BUP2). The importance of equality was

emphasised as the basis for the necessary trust between partners, and the person opined that at times equality challenges arise in relationships between BU and research-led universities in that the higher ranked partner would look down on the other institution. Transparent, open communication was emphasised as the primary strategy to overcome equality challenges (BUP3).

The internationalisation expert opined that equality would be relevant only to certain partnerships. He understood equality to mean that ‘you agree on the core components of the collaboration, and that could be the mission, but the ways in which you could achieve this could be different. So, there would be inequality in the overall aims, but not in the ways to approach them’. In addition, this stakeholder considered differences in partnership benefits and contributions acceptable, as long as there is an overall balance (BUP4).

A different picture emerged when stakeholders were questioned about the constitutive elements of substantive or formal conceptions of equality. Principles of sameness, such as sending and receiving necessarily the same numbers of staff or students per year, or making the same contributions, did not resonate well with interviewees (BUP1, BUP4). Equality generally appeared to be associated with sameness; consequently, many respondents were at first sceptical about the notion. When the researcher noted that there are different ways of looking at equality, the respondents became more open to the concept.

Stakeholders at BU, however, considered certain similarities between universities to be beneficial to partnerships. For example, the internationalisation expert explained that his home institution is looking for partnerships with universities with similar outlooks on internationalisation. He stated that ‘our approach to internationalisation is inclusive, is value-driven, ... global citizenship, and you could argue that we are looking for partnerships with universities that have the same, or at least some of those characteristics’ (BUP4). However, he also referred to the value of complementarity: ‘I would say in some partnerships, I would say

for me, not every partnership has to be based on equality, I would imagine that some partnerships are based on complementarity’ and shared the example of one of his university’s partnerships: ‘so ... the complementarity there is that they benefit from our expertise on, let’s call it, explicit internationalisation, and we benefit from their expertise in educational research’ (BUP4).

- *Eastern University (EU)*

At EU, not all stakeholders are convinced that equality should be regarded as a fundamental concept relating to international partnerships. For example, the SIO expressed his discomfort with the term ‘equality’. He explained:

I don’t think we think in terms of equality. If two researchers, the two professors, if they meet, and they find that they have joint topics, or something, they will co-operate. And, if for some reason, it does not match, well, then it happens. The interpretation is not in terms of equality.

The stakeholder associated equality in partnerships with similarities between partners but considered it appropriate that contributions to and benefits from partnerships can vary between partners, provided that all make a meaningful contribution (EUP2).

The member of the executive leadership pointed out that in its view equality should be understood to mean that ‘both parties should have the same chance to fulfil their priorities’ (EUP1). The stakeholder expressly rejected a formal understanding of equality in terms of money and highlighted that ‘economic situation, rules of funding should’ and salary costs must be considered in funding allocations to partners (EUP1).

According to EUP1, ‘[for m]any years, we had a situation where the number of our outgoing students were higher than incoming students, because, let’s say, lack of interest of students from abroad going here which resulted in numbers of outgoing students exceeding numbers of incoming exchange students’. While specific strategies were developed to

overcome this disequilibrium, it is not considered a challenge that would excessively impede partnerships (EUP2).

Only the administrator who is also working on internationalisation in the academic context and who was familiar with the research proposal unequivocally endorsed equality as a fundamental principle relating to international partnerships, but still stated that ‘I really have to admit that I am not comfortable with the term equality’. This stakeholder asked the following question: ‘How balanced are the partnerships and how sustainable can they be in the future?’ She looked at a balance not only in student mobility but also in the ‘mutual sharing, maybe of knowledge or expertise, of know-how’ (EUP3). The person emphasised that how the balance should be achieved always depends on the partner. However, approaching the concept from a critical perspective, the administrator rejected any ‘ticking boxes’ approach, and instead adopted a ‘critical view’ (EUP3).

At EU, financial schemes have been put in place to ensure that local students can participate in outgoing mobility. The university has scholarships funds available to compensate for any funding gaps in European Union exchange programmes and to support students going on exchange outside Europe (EUP2). The university is thus enabling students hailing from disadvantaged financial backgrounds to benefit from exchange studies.

(e) Equality in the partnership

Prima facie, the researcher expected two dimensions of equality challenges in the collaboration: First, the contexts of the universities are different, in that BU is located in a more affluent society compared to EU. Second, EU is a research-led institution, whereas BU is a university of applied sciences. Disequilibrium resulting from this was only partially experienced. Notably, the challenge of the different resourcing of the universities no longer plays a role, and stakeholders, particularly at BU, ascribe this partially to the ability of EU to leverage on funding

from the European Union (BUP2). Stakeholders interviewed at both universities confirmed that the different financial resources of students could be a challenge. Annual reports revealed that EU provides funding to assist outgoing exchange students in cases when the European Union funding is insufficient. According to its annual report, approximately 350 scholarships are made available per year for outgoing mobility.

Among the remaining challenges, the most notable appeared to be perceived arrogance and prejudice against EU amongst academics, which was observed at BU by an interviewee: ‘I talk to colleagues here about some of our partners, and they would say, yes, the Eastern Europeans, what would they know?’ (BUP5). During interviews and the site visit to EU, no similar resentment towards BU and its staff could be observed, and it appears that stakeholders are very comfortable collaborating with a university of applied sciences as a strategic partner.

The dominant focus on applied research at BU appears to be more challenging for research collaboration, which, according to its academic leadership, is not easy to reconcile with the more fundamental research at EU (BUP1). However, this does not appear to permeate the entire partnership, with stakeholders reporting a flourishing research collaboration, particularly on the internationalisation of higher education (EUP3, BUP2). From the conversations at both universities it appears that the expertise in internationalisation at BU makes it an attractive partner for EU, with one interviewee stating that in this specific field, the collaboration had been very ‘unequal’ at the outset, because of EU having to learn and be mentored by BU (EUP3): ‘we started thinking “what is internationalisation”, they can help [us] to internationalise the Faculty’. The different strengths of the university may result in their complementarity, with both having strengths in areas in which the other partner is relatively less experienced. This complementarity may be a core factor rendering this partnership equal and alleviating the need to actively engage on issues of equality. The BU executive observed

that the need to discuss equality arose only in the network of which EU is a member, but not in the bilateral relationship with EU.

III. Case study: Southern Bridge University (SBU) and Western University (WU)

(a) Background

This case study was selected because of the divergent nature of both the universities and the contexts. The partnership connects a highly ranked European research university and a Southern African comprehensive university. The partnership has been established over more than a decade. Thus, the challenge emanating from the divergent contexts is exacerbated by dynamics related to collaboration between a research-focused traditional university and a comprehensive university which is expected to concentrate on professional and vocational programmes.

- *Western University (WU)*

The roots of WU extend back to the late fifteenth century. The modern WU was established in the wake of World War II in a country that was one of the Axis powers in the war and is today a politically and economically influential member state of the European Union. The military administration in the region, which is located on the western side of the former Iron Curtain, intended to educate future leaders in the intellectual spirit of international understanding and peace at the re-established educational institution. Changes in political thought following the 1968 student protests and rising student numbers had a profound impact on the development and organisation of the university, which changed its structure in the 1970s from a traditional faculty structure into a departmental structure. Furthermore, the participation of all stakeholder groups in university decision-making processes was strengthened. WU has a comprehensive academic offering and focuses on foundational research.

Today the research-driven university has an enrolment exceeding 30 000, including more than 4 000 international students. Its ranking position in the 2019 THE ranking is in the category

301–350. The university's vision and mission include an international focus. The promotion of global perspectives through different activities, including global collaborations, is emphasised in the mission statement. In the relevant narrative, the value of cooperation and partnerships is underscored, and a clear commitment is made to internationalisation activities relating to teaching and learning, research and community engagement. The university has an internationalisation strategy and a special commitment to 'crossing the boundaries between nations and cultures'. It considers internationalisation to be an 'interdisciplinary task that is anchored in all scientific areas and administrative areas'. Focus areas for internationalisation include global citizenship training for students, international and intercultural dimensions in research and teaching, as well as research. A central international office enables the internationalisation process.

Partnerships are regarded as an essential element of the internationalisation process. While the university has identified select focus countries for its international outlook, it is partnering worldwide. Strong personal relationships between academics are considered essential to the success of partnerships, which are generally identified by 'systematically scanning ... what partnerships are there' (WUP1). Specific attention is afforded to screening research project applications and observing where a 'bundling' of international activities occurs, while a top-down approach is avoided (WUP1). A central aspect of partnership management is connecting bottom-up activities (WUP1). The university is committed to sustaining existing partnerships and developing new partnerships based on the impetus emanating from faculties (WUP2). In the words of WUP2, the focus is 'to maintain tradition, take in impulses from the subjects and see where [the] synergies [are]'. A revision of the partnership strategy at the time when the interviews were conducted entrenches a preference for fostering collaboration with developing and emerging countries, which allows the university to award additional stipends for participation in the activities implemented under the umbrella of those partnerships, particularly for incoming exchange students.

- *Southern Bridge University (SBU)*

SBU is a comprehensive South African university. It is the product of a merger which took place early in the first decade of this century.⁶¹⁸ This merger formed part of a broader reorganisation of the South African higher education sector, which resulted in a differentiated university system. Three categories of universities are distinguished, namely, traditional universities, universities of technology and comprehensive universities.⁶¹⁹ In the South African higher education system, comprehensive universities integrate career-focused programmes, such as professional degrees and technikon-type diplomas and certificates, with the offerings of traditional universities. They are expected to enhance the accessibility, flexibility and responsiveness of South African higher education, and to ‘develop strong vertical and horizontal articulation pathways’.⁶²⁰

The roots of the university can be traced back to the late nineteenth century when one of the campuses was established as a college. One of the other institutions which became part of SBU was a traditional university conceived in the 1960s as a white, Afrikaans- and English-medium university. Also integrated into SBU was a higher education institution which had been created in the 1980s as an ethnically focused black university, as a result of the apartheid system, which stratified the South African higher education system, with institutions serving different ‘racial’ categories.⁶²¹ Today, SBU has more than five campuses and more than 25 000 students, including more than 1 000 international students. It is organised into seven faculties which offer a programme mix that is typical of South African comprehensive universities. The

⁶¹⁸ The merger was governed by section 23(1) of the Higher Education Act 101 of 1997, which provides that ‘the Minister may after consulting the CHE and by notice in the Gazette, merge two or more public higher education institutions into a single public higher education institution’.

⁶¹⁹ Department of Higher Education and Training (South Africa) *White Paper for Post-School Education and Training: Building an Expanded, Effective and Integrated Post-School System* (2013) 27.

⁶²⁰ Department of Education (South Africa) *Creating Comprehensive Universities in South Africa: A Concept Document* (2005) 5.

⁶²¹ Walton R Johnson ‘Education: Keystone of apartheid’ (1982) 8 *Anthropology & Education Quarterly* 214.

university does not appear in the THE or other major university rankings, but it is ranked in the category 1301–1400 in the University Ranking by Academic Performance (URAP).

A self-funded international office coordinates internationalisation and international education at the university (SBUP2). The university has adopted a comprehensive internationalisation model, which focuses on diversity in the student body, internationalisation of the curriculum, research collaboration, as well as the staff and academic portfolio (SBUP2). The academic interviewed emphasised that a central strategy deployed by the international office to advance internationalisation was to encourage departments to internationalise themselves (SBUP5). According to the executive, ‘the [international office] is bringing [internationalisation strategy and the university] together and drawing up agreements and MoUs’ (SBUP2). The university’s policy on internationalisation stipulates that partnerships have ‘to add value and be equal’. At the time of the research, a new internationalisation strategy was drafted, which would shift the focus to understanding the different internationalisation activities which are happening across the university and using them to advance the process of internationalisation. At the time of the visit, SBU was regarded as one of the leading universities in the internationalisation process in South Africa. Its internationalisation model has influenced the entire South African higher education sector, and many other South African universities have adopted aspects of SBU’s approach to internationalisation. SBU’s partnership strategy has changed gradually since the beginning of the millennium. Initially, it focused on establishing relationships with the Global North; this has gradually changed to a focus on Africa and Brazil, Russia, India, China and South Africa (BRICS) (SBUP4). Furthermore, there is an increasing focus on staff mobility, joint publications and research in internationalisation (SBUP2).

(b) Process

Entry into this partnership was made through the SIO of SBU (SBUP2). He facilitated the interviews at SBU and subsequently connected the researcher with WU. The SIO of WU

(WUP2) arranged the interviews at this university. Site visits were undertaken to both universities, and semi-structured interviews were conducted. The interviewees included one retired academic from SBU who had championed the partnership in his particular discipline. One interview was conducted remotely through Skype. SBU made evaluations of the partnership with WU available, in addition to their publicly available documents.

(c) The collaboration

The partnership was conceived in the late 1990s as a faculty-specific collaboration in the social sciences (SBUP2). It has grown organically over the years and includes student and staff mobility, research collaboration and joint community outreach activities (SBUP2). The role played by two academics from Humanities was critical for the establishment of the partnership (WUP3). While an increasing number of departments and disciplines got involved in the collaboration over time, it was not possible to achieve equal participation in student and staff exchanges in the partnership. A partnership evaluation undertaken by SBU for the period 2006 to 2017 by one of the partners revealed that six academics from WU participated in academic exchanges, whereas ten staff members participated in exchanges from Africa to Europe. Conversely, participation numbers in student mobility indicate a strong preponderance of participation by European students: In the evaluated period, 143 students participated in student exchanges from WU to SBU, whereas only three mobilities were reported in the other direction.

A specific focus of the partnership has been collaboration in communications, which was championed by two academics who retired while the research was undertaken (SBUP5). It involved staff exchanges and teaching and research collaboration (SBUP5). The champions involved students in the collaborative activities, but because of limited financial resources, the mobility of learners was mostly one-directional from North to South. SBUP5, who coordinated the collaboration for SBU, explains: ‘I would go and teach for two months [at WU], and they [WU students] would then be taught the theory and the methodology. And then those students

who wanted to come over to SA [did so]'. However, academics reported that they successfully created space for the involvement of South African students in academic activities conducted at SBU (SBUP5). For example, he would 'bring [his] students, SA students, into the classroom and for the full day, talking about 6 hours, we assessed all these things that they were experiencing [interacting with WU students]' (SBUP5).

Two specific challenges appeared to arise concerning student exchanges in the partnership. First, at WU, German is the predominant medium of instruction, which makes it difficult for South African students to participate in exchange programmes (WUP2). This administrator recalls that the university—

talked to the SIO and the NMU in many conversations about the fact that we would also like to bring students to us in order to get a balance and equality in the exchange, but that was difficult because on the one hand the language skills [at SBU] are missing. Who can speak German so well that you can study here? (WUP2)

Second, the no-fee German education system results in additional challenges for student mobility in that waiving fees for exchange students is a significant financial burden for SBU, whereas 'the European institution does not have to waive anything of value' (SBUP2), although it was possible for the partners to find a *modus operandi* which allowed some students to participate in exchanges to WU. SBUP2 explained:

Reciprocity is not just you waive fees, but we calculate the total cost of a mobility, whether staff or student or research, and we cost it [at SBU] and we cost it [at WU]. Part of the agreement with WU is the difference – they need to make it up somehow – whether it is in kind by giving free accommodation, or DAAD funding, and that becomes a stipend for own students. On this side, if we waive fees, we waive nothing else. That means the students have to pay all the other cost. And that way, you can actually balance out the cost.

However, collaborative endeavours are not limited to student and staff mobility. Research collaboration became another focal point of the joint activities. Funding by a South African research funding entity allowed two academic champions for the collaboration to engage in a

joint research project, which resulted in several co-authored publications. This research collaboration was embedded in an innovative internationalisation project, which was championed by two academics from the partner universities (SBUP5).

Another innovation within the partnership space was that the partners were able to implement a collaborative degree programme long before an appropriate legal framework had been discussed and implemented in South Africa (SBUP2). Joint degrees were not expressly regulated in the country until 6 November 2020,⁶²² although they have been practised at some universities for some time.⁶²³ In the first decade of this century, this practice was not yet widely established. In a pioneering move, WU and SBU were, according to the stakeholders interviewed, the first to establish a collaborative degree programme: ‘We’ve done joint degrees with WU long before joint degrees were here’(SBUP2). An academic recalls:

I would go there and teach in the first semester to their Master’s students. Ten or 15 of them would come to [us] in the second semester and enrol in our Honours programme, doing 50% of the honours ... here. They graduated at the end of the year with a [SBU] honours degree, go back and take the credits they did her in their Master’s degree programme, spend another year there, and then graduate with a Master’s degree [at WU]. (SBUP2)

⁶²² Joint degrees are regulated by the Policy Framework for Internationalisation of Higher Education determined in terms of Section 3 of the Higher Education Act, 1997 (Act 101 of 1997), GG no 43872 of 6 November 2020. The framework was published by the South African Department of Higher Education and Training (DHET) – see Department of Higher Education and Training *Policy Framework for Internationalisation of Higher Education in South Africa* (2020), available at <https://www.dhet.gov.za/Policy%20and%20Development%20Support/Policy%20Framework%20for%20Internationalisation%20of%20Higher%20Education%20in%20South%20Africa.pdf> (accessed 21 January 2021).

⁶²³ In South African higher education, joint degrees were, prior to the determination of the Policy Framework for Internationalisation of Higher Education in South Africa, generally considered legal, whereas double degrees were considered undesirable and generally not in accordance with the country’s legal system. Publicly available documents show that a number of universities offer joint postgraduate degrees with universities outside South Africa, including the University of Stellenbosch (see the Stellenbosch University Policy regarding joint and double degrees at Master’s and Doctoral level with Foreign Universities, approved by University Council on 3 December 2012, available at <http://www.sun.ac.za/english/policy/Documents/Policy%20on%20joint%20and%20double%20degrees.pdf> (accessed 21 January 2021)); the University of Pretoria (see University of Pretoria Joint Degrees, available at <https://www.up.ac.za/media/shared/Legacy/sitefiles/file/4863/8919/jointdegreesguidelinesup.pdf> (accessed 21 January 2021)); and the University of Cape Town (University of Cape Town Policy on co-badged and joint or jointly awarded qualifications (‘joint degrees’), available at http://www.uct.ac.za/sites/default/files/image_tool/images/328/about/policies/Policy_Joint_Degrees_2015.pdf (accessed 21 January 2021)).

This internationalisation intervention was also unique in that an element of virtual mobility was included at a time when this was not yet widely practised. When the South African academic champion taught in [the country where WU is located], he would involve his South African students in a joint communication assignment. Participants were allowed to interact only through emails (SBUP5).

A large-scale, student-driven community engagement project which focuses on education for young learners emerged from the collaboration. Student-initiated work in a township was located close to SBU and established a foundation which focuses on fundraising, specifically in the country in which WU is located, for the multidimensional project (SBUP4). A range of educational and cultural projects are implemented in the township, and SBU continues to be involved as a project partner. The project has made a positive substantive difference to socio-economic development in the township on which its activities focus (SBUP2).

(d) Perceptions of equality at the partner universities

- *Western University (WU)*

Equality is considered important in partnerships, but there appears to be no uniform understanding of the concept. The respondent from university leadership underlined the importance of establishing partnerships through negotiations at eye level, which would ensure equality at the meta-level. This would have to be understood to be similar in meaning to the human-rights context, in that one would afford equal rights, interests and obligations to the partner, and focus on the reciprocity in the relationship of rights and obligations. However, it would not mean that sameness in the activities is necessary, and the meaning of equality could be context-specific. Numeric equality, which is associated with an understanding of equality as sameness, could mean inequality. Fairness and keeping a balance are seen as important concepts which are at least as important as equality by leadership (WUP1).

The SIO of WU emphasised that a relationship ‘which is based on mutual trust, which has to be so flexible, and should be so flexible that it doesn’t exactly add up’ would be necessary. The relative equality of the partner’s circumstances would be valuable. The comparability of the legal framework for higher education, including examination regulations, is regarded as a prerequisite for successful collaboration (WUP2). Strategically, WU has committed itself to supporting collaboration with developing or emerging countries, which allows the university to award stipends for the participation of students from partner universities in those countries in student exchanges (WUP2). When structuring partnerships, the financial capacity of partners is taken into consideration, concerning both the allocation of responsibilities and financial contributions (WUP1). The SIO remarked that, in his personal view, there must be a meaningful contribution from the university in the partner country, including a monetary one. However, it would not have to be on the same level (WUP2).

While equality in partnerships is cherished, inequality between partners is considered attractive, especially when complementarity prevails between the different capacities at partner universities (WUP2). However, even collaboration with universities of different characters would be interesting in the absence of complementarity, because it allows for the broadening of horizons (WUP2).

- *Southern Bridge University (SBU)*

Equality is seen as a non-negotiable foundational principle of higher education partnerships by most stakeholders interviewed, although only the SIO (SBUP2) had a deep conceptual understanding of and different views on the topic. Participants in the research from SBU demonstrated high sensitivity to equality issues and partnerships, and many had applied their minds to strategies for alleviating equality challenges. For example, the SIO explained that postgraduate students would, on the initiative of SBU, be sent to partner universities in exchange for undergraduate students, which would be critical for attaining equality in student

exchanges impaired by language barriers, because it would allow for South African student participation even when the language requirements of the partner university cannot be met. Equality is considered central to all aspects of a partnership but this does not mean that it has to be based on sameness. A central equality challenge appears to be the value of contributions in relationships with universities which do not charge their students fees, in that those universities are considered 'to be waiving nothing' (SBUP2). The SIO expressed the view that, generally, the value of SBU's contribution to partnerships would be higher compared to that of universities located in higher-income countries (SBUP2). The understanding of equality is contextual and takes into account the fact that 'indicators that one develops to evaluate the value must be much broader than just the physical, that means counting numbers, counting money, but must include unseen benefits' (SBUP2).

Stakeholders at SBU pointed out that it is crucial to take a holistic view of equality and contextualise the activities in the partnership as a whole. It is critically important that 'there must be some mutual benefits' (SBUP1). One interviewee stressed that inequalities might manifest themselves in financial terms, but not in terms of the knowledge generated out of joint activities (SBUP4). Generally, equality as a principle underlying partnerships was distinguished from a maxim that the *gestalt* of partners should be identical. The strategies mentioned to achieve equality include honesty about the nature and resources of the own university, authenticity and being self-assured in negotiations (SBUP3). Interviewees also mentioned that outcomes of partnerships could differ between the partners. Each partner must be able to reap some benefit, which does not necessarily have to be the same (SBUP4).

The efforts to ensure equality in SBU's partnerships appeared to be paying off. The academic interviewed observed that he 'never experienced less than equality in his international relationships and the time we spend together'. Complementarity was described as a central tenet of academic relationships (SBUP5). The financial disadvantage of SBU was regarded as an

obstacle in achieving equality in collaborations. The interviewed academic stressed that equality should be understood contextually. It would be acceptable for the nature of contributions to vary, for example, for one party to contribute more funds and the other more fieldworkers (SBUP5).

(e) Equality in the partnership

Equality has been expressly considered in this partnership for a long period. The preamble to an ‘Agreement concerning the Academic Exchange’, dating from 2008, which at the time of the case study was still in force, states:

The President of the [Western University] and the President of the [Southern Bridge University] have *as equal partners* (emphasis added) agreed to cooperate in the disciplines of ...

Despite the express commitment to equality, since the inception of the collaboration an imbalance in the numbers of student and academics involved in the partnership has prevailed.⁶²⁴ The SIO of SBU puts this into perspective; he emphasised that it was never the intention to send equal numbers of students to WU, but that a holistic approach was taken towards the partnership, with many benefits located outside the classroom. Open and frank discussions on reciprocity, which culminated in a joint presentation of the SIOs on the issue, ensured that the partners were able to achieve an overall balance in their relationship, which was described by the SIO as a ‘unique space’ (SBUP2).

SBU has adopted an approach whereby it substantially limits the number of exchange places for which fee waivers are offered and charges fees for additional students from WU. The income generated is used to fund internationalisation activities, including outgoing mobility, at

⁶²⁴ Partnership evaluation received from SBU.

SBU (SBUP2). An initiative introduced shortly before the site visit brought it to the fore that funding initiatives alone fall short of alleviating equality challenges. WU made funding available for students from SBU to participate in student exchanges to Germany. This funding would have covered their flight costs, accommodation, and subsistence expenses. However, it was not possible to find students who were willing to participate in the exchange. The administrators involved in the partnerships considered short notice for the opportunity, the lack of involvement of specific academic departments and champions as well as WU's limited foreign language offering to be possible reasons for the failure of the programme (WUP3). This failed attempt demonstrates that it will always be difficult to structure suitable interventions to achieve equality. It also indicates that attempts to achieve sameness in specific partnership activities may be futile. Achieving equality in partnerships requires the consideration of a broad range of contextual factors, and the WU–SBU collaboration includes positive examples as to how equality can be achieved.

The partners are looking at new ways of achieving a balance in the collaboration. The staff member responsible for partnership management at SBU highlighted that there is a constant rethinking of ways of implementing partnerships activities with WU (SBUP4). New approaches to enhancing equality would include focusing on postgraduate students, and particularly PhD candidates, for outgoing mobilities, co-supervision and the use of research facilities. Indeed, it appears that despite the inequalities in some specific partnership activities, this does not translate into inequality in the partnership as a whole (SBUP4).

Stakeholders at both universities do not perceive equality as requiring sameness but take a contextual approach. One of the academics involved in the collaboration described it as follows:

It shouldn't become the problem of who must give more or less or give equally the same. It could be, let's say, WU can give more money, but we can give more assistance in the field work, ... [We] put them in quarters where [they] stay and sleep for the month. (SBUP5)

In addition, the partners achieve equality because they implement activities which follow the priorities of the other partner. For example, while the number of students involved in mobilities from SBU to WU has been small, it has included doctoral mobilities, which are a priority for SBU. A specific way to achieve equality in a disciplinary teaching collaboration was described by the academic who participated in the project. While he went to teach at WU, the students from the partner university came to South Africa, as well as the collaborating academic (SBUP5).

IV. Case study: Southern European University (SEU) and Park University (PU)

(a) Background

This relatively young collaboration is an example of a collaboration between a university of technology with relatively limited resources in a developing context and a research university in a developed country. The partnership presently relies predominantly on external funding. The young collaboration is a typical example of an externally funded partnership between higher education institutions of divergent strength, with a difference in context as well as in the nature and standing of the universities.

- *Southern European University (SEU)*

SEU is an urban higher education institution located on the Iberian Peninsula. It was established in the 1990s and today has more than 40 000 students. It is a research-intensive institution; the wide-ranging academic offering includes doctoral degrees, more than 40 collaborative programmes and a limited number of English-language programmes. Another defining feature of the tertiary institution is its interdisciplinary focus. The multi-campus university features in the category 801–1000 in the THE WUR, and in the category 201–300 in the THE University Impact Rankings. More than 5 000 international students hailing from more than 100 countries study at the institution.

SEU does not have a single signed university strategic plan, nor an approved formal internationalisation strategy. However, according to the SIO, it considers bilateral international university partnerships to be essential to its internationalisation process in that ‘[a]ll is working from the bilateral agreements, the main strategy in internationalisation for us. It is most important’ (SEUP1). The university works with partners globally to develop bilateral partnerships, and predominantly utilises European Union funding to implement them (SEUP1).

- *Park University (PU)*

The predecessor to this South African university emerged as a ‘technikon’ from a voluntary merger which took place shortly before the significant restructuring of South African universities took place in early 2000.⁶²⁵ The newly formed academic institution combined a historically white, privileged technikon with a previously black higher education provider. Both shared the focus on technical and vocational qualifications but had distinctly different histories. The previously white institution was established shortly before the formation of the Union of South Africa and exclusively educated white students during the period in which apartheid prevailed. Conversely, the previously black education provider was conceived of as a community initiative of a black group before the Second World War. The college became a full tertiary institution in the 1980s; its academic offering included Commerce and Arts programmes. The merger of the institution had predated the establishing of Universities of Technology in South Africa.

Today, PU has five different campuses and is the academic home for more than 25 000 students. Six faculties provide an academic offering which includes Master’s and doctoral degrees. The university was at the time of the site visit and interviews ranked in the category

⁶²⁵ See Department of Higher Education and Training (2013) op cit note 619 on the reorganisation of South African higher education.

1901–2000 in the University Ranking by Academic Performance (URAP). In 2021, it was ranked in the category 401–500 of the THE World University Rankings. The institution’s strategic plan recognises comprehensive internationalisation as a strategic driver; the plan explicitly highlights the internationalisation of the curriculum and emphasises that the process should benefit all staff and students. According to its SIO, the university purposefully avoids inflexible and lengthy policy documents relating to internationalisation to avoid stifling flexibility through lengthy strategy or policy positions:

Because, if you make it too comprehensive a strategy, you may not be able to respond. For example, if I had a policy that spoke about specific elements about how we develop partnerships, when the [specific virtual exchange opportunity] came, one may easily have missed it. (PUP2)

The university has become a leader in the implementation of virtual exchanges in South Africa and considers this to be a central intervention for the advancement of the internationalisation of teaching and learning. Decolonisation is a significant theme for the university, and stakeholders agree that it is complementary to internationalisation (PUP1). Another critical driver for internationalisation is the Confucius Institute located on its campus. The quality of the university’s internationalisation process was recognised at the time of the research by a prominent international award.

(b) Process

Entry into the partnership was through the SIO of PU. He assisted in setting up the interviews at PU and connected the researcher with SEU and assisted with the scheduling of the interviews at this university and access to documents. His counterpart at SEU facilitated the research at his university and planned the Skype interviews at his university. A site visit was conducted to PU during which the semi-structured interviews were conducted. Due to resource and time constraints, the engagement at SEU was limited to semi-structured Skype interviews and the evaluation of publicly available documents.

(c) The collaboration

This young partnership emerged from an EU-funded network, which was established less than a decade ago as part of the Erasmus Mundus scholarship funding scheme (PUP2). The South African–European mobility partnership involved approximately 20 universities and research institutions (PUP2). Initially, the focus was solely on mobility from South Africa to Europe; as from 2014, the Erasmus Mundus framework allowed for a limited number of exchanges from Europe to South Africa.⁶²⁶

Following the end of the final funding cycle, some of the partners found common ground and resolved to continue collaborating. Central to the success of the collaboration is the direct personal relationship between the SIOs. PU and SEU worked together to obtain funding for new staff and student mobilities from the EU’s new Erasmus + framework for staff and student mobilities. The bilateral relationship is mostly funded by the EU through this framework; limited supplementary funding is provided by the partners. Stakeholders perceive this as a risk, in that this funding is finite, and try to incorporate activities in their planning and budgets and aim to use more cost-effective forms of collaboration, such as virtual exchanges.

The partnership, which is driven by the directors of the international offices at the two universities, encompasses student exchanges, administrative staff mobility between the international offices, as well as a visit by two Deans from PU to SEU. While external EU funding for the student mobility is presently available only for PU students to visit SEU, the latter university plans to launch calls for mobility to PU in the future, albeit without funding support (SEUP1). In addition, academic departments are collaborating directly outside the immediate ambit of the university agreement, including collaboration in doctoral education:

⁶²⁶ Hermien Kotze & Rene Lenssen *Erasmus Mundus South Africa Tracer and Impact Study: Final Report* (2015) 16.

They are now working outside specific agreements within research groups, from PU and SEU, with several doctoral students. (SEUP1)

The SIO of PU explained that Deans were for strategic reasons invited to participate in the staff exchange, with the expectation that this could assist in deepening and widening the collaboration (PUP2). This was partially successful: one of the Deans who participated in the engagement reported that, while the engagement was personally very fruitful for her, the lack of academic congruence resulted in a situation where no immediate collaborative activities could be established in this Dean's faculty, although the Dean hopes that there may be prospects for developing collaboration in the medium term (PUP1). Nevertheless, the collaboration is thriving academically in another faculty and expanding beyond student exchanges into research (PUP1).

Critically, one administrator at PU remarked that there was still 'a lack of embeddedness of the collaboration' (PUP5). Presently, student mobility involves only South African students participating in exchanges to Europe (SEUP2). The SIOs of the two universities are committed to strengthening the partnership and expanding it specifically into research (PUP2). Stakeholders from both universities pointed out that this was a successful partnership primarily because of effective communication lines (PUP1).

(d) Perceptions of equality at the partner universities

- *Park University (PU)*

At PU, there is a strong sense at the management level that equality is vital in international partnerships, although some stakeholders cautioned that equity might be the better word. The manifold definitions to which equality is open might be disadvantageous, which could in the perception of the SIO be rectified through a common, broadly accepted definition (PUP2). One

administrator in the international office remarked that '[m]ore clarification is needed by definition, what exactly is the purpose, how should it be applied ...' (PUP3).

Equality is not regarded as a numerical, mathematical balance. Instead, as the SIO put it, it is about 'looking at the qualitative elements of a partnership, and seeing how they balance out'. The office bearer labels this conceptually as an 'asymmetrical balance', which would be characterised by 'one partner getting more of one thing, and less of another, and another partner benefiting in some other ways' (PUP2). An academic who was interviewed explained that appropriate conceptions of equality would depend on the type of project one implements (PUP6). The academic leader responded that her understanding of equality is that 'everyone should have equal opportunities' (PUP1). In the context of partnerships, the respondent considered it essential that equitable relationships be developed, and emphasised that the partners that they personally engage with would have to be 'understanding and willing to accept that they're not getting the same out of us in terms of finance'. However, it would be important that partnership contributions are equally meaningful (PUP1). Communication (PUP2), mutual benefit (PUP2), respect (PUP6) and complementarity (PUP4) are all regarded as essential aspects of equality in partnerships.

To achieve equality, there was a sense amongst stakeholders at SEO that it is crucial that partners can equally achieve their own priorities (PUP1, PUP6). In the context of PU, the academic leader remarked that 'the diversity and history of South Africa would motivate partners in more affluent contexts to invest in partnerships' (PUP1). One management member indicated that she achieves equality in the partnership with a university that is financially in a far more advantaged position compared to PU, in that she has expertise in her team which is not present in the other institution (PUP4).

- *Southern European University (SEU)*

There appears to be little clarity about the concept of equality in bilateral university partnerships at SEU. The predominant use of the concept of equality is, according to the SIO, in the gender context (SEUP1). However, on reflection, it was conceded that equality would encompass the equality between university partners and constitute a fundamental principle relating to bilateral university partnerships. This would, however, not have to mean that the same benefit is derived by the partners:

For example, in our agreement between PU and us, it seems that we give money to PU to receive students and teachers from there to come here, [to] the benefit of their students. I told you for us it is very important to receive the students in our classroom. For us, we think that there is equality in the agreement. In all our agreements, it is very important that all of the people receive benefits. (SEUP1)

The SIO at SEU expressed the concern that the European KA 107 funding scheme, on which the university predominantly relies to develop its bilateral partnerships, is not equal, because it generally funds only mobility from outside Europe to Europe. However, his university would accept this limitation because it benefits its internationalisation at home strategy through the presence of international students in the classroom.

For us, when we have one South African student in our classroom, all the classroom, all the people are internationalising, thanks to that student. (SEUP1)

The administrator interviewed emphasised that ‘equality is very important to us’ (SEUP2). She noted that particular emphasis is placed on achieving an environment in which ‘all the students are the same’ (SEUP2).

(e) Equality in the partnership

Generally, there is a sense that equality is being achieved in the partnership. However, specific challenges still need to be addressed, particularly concerning the implementation of student

mobility from PU to SEU. Finance and the language barrier between the partners are viewed as the core obstacles to equality at PU.

The need to make visa payments upfront and to travel to another South African city for visa applications are perceived as core obstacles to equality in the partnership. One administrator described dealing with these obstacles as an ongoing challenge and mentioned that they were considering budgeting for those items as part of regular financial planning. The person explained that while it was possible to discuss the challenge openly with the European partner, this would not have resulted in change after their return to their home institution (PUP5). The other inequality is that bidirectionality has been achieved only in staff exchanges, not in student exchanges. Student mobility is taking place only from PU to SEU, funded by the European Union. The core reason for this is the language barrier between the institutions (PUP5). SEU representatives consider the unidirectionality of the student movement as the core equality challenge, but nevertheless regard the partnership as equal, mainly because of the internationalisation at home benefit that is being derived by SEU. The challenge encountered constitutes a different inequality compared to that observed in the two other partnerships between South Africa and Europe, in that the mobility flow is South–North rather than North–South. This demonstrates that every partnership has its specific dynamics, and generalisations are not always possible.

The academic leader from PU who had been involved in the visit to SEU reported that she benefited more from the engagement than the European partner. Nevertheless, the interaction would have been equitable in that the collaborators would have been able to ‘tick the box’ in terms of the EU-funded programme. However, the same stakeholder critically remarked that whenever, as in this relationship, there is ‘a one-way investment, it is unbalanced and therefore unequal’, although the person still described her engagement as ‘mutually beneficial and respectful’ (PUP1).

V. Case study: Marble Ridge University (MRU) and Central University (CU)

(a) Background

This case study involves two research-focused universities, which have both been active in research and higher education for more than a century. This partnership was selected because it is an example of a collaboration between two universities which are in their respective geographical contexts considered as leading research universities and are highly ranked. However, the societies in which they are embedded fundamentally differ in that CU is located in a highly industrialised European country with a high income. In contrast, MRU is located in South Africa, a middle-income country with highly unequal income distribution. A commonality between the two institutions of higher learning is the radical transformation and democratisation of their contexts in the last decade of the twentieth century. The part of the country in which CU is situated was, until peaceful revolutionary change occurred in 1989, governed by socialism, whereas South Africa was subjected to the misguided doctrine of apartheid. Radical transformation processes occurred in both countries, and the transition through the change in their respective countries ‘has always been part of the discourse between the two institutions’ (MRUP2).

- *Marble Ridge University (MRU)*

The historical origins of MRU can be traced back at least to the second half of the seventeenth century, although it was established in its present form only in the early twentieth century. MRU is today a leading South African research university and features in the top 150 universities in the THE World University Rankings. The university has more than 25 000 students, who are educated in ten faculties. Historically, the university was one of the white South African universities, and the medium of instruction was Afrikaans. It has gone through a profound transformation process since democracy was established in South Africa, and today its student

and staff body is racially diverse, and the university has adopted a multilingual instruction model.

Internationalisation is regarded as a high priority at the university, which is guided by a formal internationalisation strategy. This strategy aims to provide a guiding framework for internationalisation and sets out the rationales, themes and background. The university follows a comprehensive internationalisation approach, which is reflected in an institutional definition of internationalisation based on central elements of the definition offered by De Wit et al in 2015.⁶²⁷ Eight dimensions of internationalisation are used as a guiding framework; prominence is afforded to the research and academic programme dimensions of internationalisation. While international partnerships are not enumerated as a dimension of internationalisation, principles relating to them are stated as an aspect of the stakeholder dimension of internationalisation. The commitment to African partnerships is central; however, it is stated that the university's partnership portfolio shall 'include a core group of existing institutional partnerships beyond Africa'. Another important tenet is the establishment of 'global thematic partnerships with eminent institutions in support of the five inclusive overarching research areas aligned to the SDGs'. The strategy does, in the words of the executive respondent, 'deliberately not focus on bilateral partnerships' because a shift towards multilateral partnerships and networks is expected (MRUP1). The strategy contains no further details on principles of partnership management, except for stating that the 'regular review, evaluation, and updating of partnerships' shall be undertaken.

The university's commitment to internationalisation is reflected in the fact that it had, shortly before the research was conducted, created an executive portfolio relating to internationalisation and strategy. The office bearer was interviewed. She highlighted that

⁶²⁷ De Wit et al op cit note 40 at 29.

differentiation of the partner portfolio is the core thrust of MRU's strategic approach to partnerships:

We are in the process of differentiation in terms of different parts of the world, different countries and different areas where we want to grow in terms of research. Looking at the very long list of already existing partners, we've gone through an evaluation of quite a number of those partners, more than 100 of those partnerships, and based on the evaluation we are able to identify who will be our strategic partners for the future. (MRUP1)

This differentiation strategy is reflected in a move towards focusing more on African partnerships, leaving behind the traditional Eurocentric partnership focus. Academics at MRU concur that the strategic focus has shifted towards affording more visibility to international partnerships (MRUP3).

The evaluation of existing partnerships is a central theme of MRU's partnership management, with the core thrust being the identification of strategic partnerships. A central strategic tenet of partnership management is 'to be guided by academic collaborations' (MRUP2). Generally, partnerships are considered institutional when they serve three or more faculties and encompass both research and mobility. In order to advance its partnerships, annual 'academic meetings' which include one representative from each partner university are held (MRUP2).

- *Central University (CU)*

CU was established in the fifteenth century. It is located in a region of Central Europe which has gone through a rapid transformation process following the fall of the Iron Curtain and today has an income and living standard comparable to industrialised Western European regions. Cross-border collaboration is deeply rooted in the history and tradition of the university, which owes its existence to a community of scholars hailing from several nations moving in the wake of scholarly discontent at another Central European university. In its heyday, in the nineteenth century, it was regarded as one of Europe's leading cultural centres. During the socialist era,

the university was renamed, and teaching and learning were severely impacted. Today, CU ranks amongst the top 150 universities according to the THE World University Rankings. The university comprises 14 faculties and has more than 30 000 students.

Internationalisation is a central theme of the university's strategic planning. According to its Vice-Chancellor, internationalisation is viewed 'as an interdisciplinary task that must permeate all areas of the university'.⁶²⁸ Internationalisation is based on six transversal objectives, which include 'organising consortia'. In addition, the university has formulated internationalisation targets relating to international staff, international student mobility, internationalisation of the curriculum, academic success and its reputation. A previous member of the executive, who was involved in the drafting of the current internationalisation strategy, notes that a central tenet of the strategic approach is the 'opening of thoughts in all categories' (CUP1).

The strategic target relating to consortia emphasises the importance of establishing alliances in core fields of academic growth, with selected partners.⁶²⁹ According to its Vice-Chancellor, considering that the university thrives on a wide variety of subjects, it is 'unavoidable and logical to look for the best partner worldwide for every discipline'.⁶³⁰ This quest for 'best' partners is understood by internationalisation practitioners to relate first to the 'best-fitting' partner in terms of complementarity (CUP3). It also relates to the 'best' partner in terms of interpersonal energy, which is understood to include trust and the ability to reach compromises (CUP3).

⁶²⁸ CU website.

⁶²⁹ Ibid.

⁶³⁰ Ibid.

In the Vice-Chancellor's view, extraordinarily high academic staff mobility is a reflection of its academics' international orientation.⁶³¹ The SIO emphasised the traditional 'welcoming culture' of CU, which includes a tradition of welcoming incoming visiting scholars and research students with specific welcoming functions (CUP2). However, the university does not have a specific partnership strategy: one respondent noted that 'the strategy may be not to have a strategy' (CUP3). However, certain fundamental tenets of the approach to partnerships emerged from the interviews. First, a bottom-up approach to partnerships prevails, with 'the scientists, the academics, deciding who is complementary and who is a good partner for them'. Second, institutional partnerships are considered only when at least three faculties express their interest in the collaboration; this 'restrictive approach' results in a relatively low number of formal partnerships (CUP2). Third, select strategic partnerships, such as the collaboration with MRU, are specifically supported by leadership. Those are partnerships which have tradition, are spread over several levels, and are driven by people who want to cooperate (CUP1). Fourth, the focus of activities which facilitate international collaboration has shifted from bilateral partnerships to engagement in networks (CUP2); however, CU continues to cherish and nourish its bilateral strategic partnerships such as the collaboration with MRU (CUP2). In the perception of the academic interviewed, the CU's strategic approach to partnerships differentiates between research-focused, student-exchange focused and institutional partnerships (CUP4), with research collaborations mostly being independent, whereas activities would be actively structured by the university for institutional partnerships.

(b) Process

The entry into the partnership was facilitated by the SIO of MRU, who is personally known to the researcher. His office scheduled interviews at the MRU and introduced the researcher to his

⁶³¹ Ibid.

counterpart at CU. The international centre of CU connected the researcher to stakeholders, with whom interviews were directly arranged. A site visit to MRU was conducted, during which semi-structured interviews were undertaken. Interviews at CU were conducted through the ‘Skype’ and ‘Zoom’ digital platforms. MRU disclosed a comprehensive partnership evaluation and the internationalisation strategy of the university, which at the time of the research was not publicly available, to the researcher, which was perused in addition to the publicly available documents. Extensive strategic internationalisation documents from the CU website were also consulted.

(c) The collaboration

The history of this collaboration goes back more than 20 years. CU intended at the time to initiate partnerships in the region in which MRU is located. It negotiated with three potential partners, and MRU took up this opportunity (MRUP2). The link between the SIOs of the two universities (MRUP2, CUP2) appears to be central to the success of the collaboration. The SIOs assumed their positions at approximately the same time, shortly before the partnership was established, and regard each other as professional ‘companions’ who are personally and professionally closely connected (CUP2). CU was open to integrating MRU into its existing networks and existing projects. The SIO of MRU describes the formative stage of the partnership:

So, the partnership developed by chance level, then through a personal connection and generosity in terms of sharing their networks with us. (MRUP2)

According to a document published by CU, the partnership ‘now includes three integrated study programmes, three binational PhD programmes, research projects in nine different subject areas as well as teaching cooperation and the exchange of students, scholars and administrative staff’. This is ascribed to its dynamic development:

History-wise, it evolved step-by-step, there was always a field added or a format of cooperation, so it went from student exchange to exchange of staff, to integrating teaching into our curriculum, and then we set joint study programmes. You can compare it to a staircase – we started with loose cooperation formats, and then we added and sort of raised the level of integration between the partners. We are now involved in 14 different subjects with each other, we work together on the administrative level, on the central level, on the university management level, we have exchanges in research, in education, field trips etc. There is a very high-level integration between MRU and CU. It is sort of self-driving. (CUP3)

Collaboration in the European language which is spoken in CU's country has historically been a focal point for the collaboration, and in this field, a joint degree programme in the relevant language has been developed (MRUP4, CUP1). A CU institute is located in one of its faculties and is responsible for teaching and research of the country's national language as a foreign language. The institute collaborates with MRU's department of modern foreign languages, and this has resulted in the development of a joint degree programme (CUP1, MRUP4). While this collaboration has its own specific character, it forms part of the greater university partnership between CU and MU, and this embeddedness is appreciated by stakeholders (CUP1).

'Academic hospitality', which involves the sharing of resources and giving access to resources and networks, is considered important, as well as finding 'academic homes' for partnership activities (MRUP2). For the sustainability of the partnership, academic involvement is considered critical at both universities (MRUP2, CUP2). One of the academic respondents at MRU highlighted that his involvement in the collaboration came about following personal relationships (MRUP5). The partnership involves champions in several faculties and disciplines, and champions from both universities appear to have been very willing to participate in the collaboration (MRUP2).

Academics at MRU utilise both external and internal funding in order to pursue collaborative activities with CU (MRUP3). Not all staff at MRU felt that the university is providing sufficient support for this partnership. One academic remarked that she appreciated

the personal support from the SIO in this regard, but felt that it did not emanate at the institutional level (MRUP4). A significant issue is sustainability, particularly caused by the volatility of EU funding availability. The collaboration relies heavily on EU funding, which is diminishing (CUP2, MRUP2) and is awarded for relatively short funding cycles. The same is true of the financing of the joint Master's programme; it depends on funding by a national funding agency in CU's country, which requires regular follow-up applications (CUP1). The sustainability of this specific programme is also challenged by personnel changes (CUP1).

Financial challenges are countered by financial commitments by the two partners, although funding is scarce in both contexts. However, the SIOs, who are central drivers of the collaboration, are not concerned about its sustainability. They continually involve new personnel, particularly senior academics. In addition, regular bilateral 'contact seminars' have been added to the partnership activities, in which both academics who are involved in the joint endeavours and those who are considering getting involved participate (MRUP2). This assists in ensuring a broad basis in faculties at both universities, and consequently there is confidence in the sustainability of the collaboration, even if the SIOs were to leave their respective institutions. A senior academic at CU commented that 'the signals, the signs that I see are that the partnership will continue' (CUP4).

The transformation process which the regions and partners experienced in parallel in the life of the partnership has resulted in many discussions, but it has not resulted in a specific project (MRUP2). One stakeholder observed that 'this is a bond which ties the partners together. However, the partnership would not be purpose-driven, but could rather be described as an "open playground", which would make it particularly interesting' (CUP4).

(d) Perceptions of equality at the partner universities

- *Marble Ridge University (MRU)*

Amongst the core themes for the identification of strategic partners is the prospect of reciprocity (MRUP1). Equality is regarded by both the executive and the SIO as a significant theme for partnerships: ‘Anyone from the Southern Hemisphere will know this is our biggest challenge, to get to a point where there is equality’, and it is regarded as being of specific importance for strategic partnerships (MRUP2). According to the executive, the institution endeavours to apply ‘the World Bank structure in terms of low, middle and high-income countries’ in partnership negotiations, and expects partnership contributions to relate to resourcing (MRUP2). The equal sharing of benefits is also viewed as important (MRUP2). According to the executive, there is more openness from EU universities to engaging in discussions relating to equality; this is more difficult with North American higher education institutions (MRUP1). Equality is also regarded as a more significant challenge in new partnerships; in more established partnerships, it would be easier to negotiate issues relating to equality (MRUP1). However, in light of the different approaches of institutions from the Global North, the institution does–

not use the term ‘equality’ in our discourse, our narrative around partnerships, we would talk about mutuality and complementarity, and that helped to bridge gaps that there were. (MRUP2)

MRU’s SIO describes the university’s understanding of equality as follows:

So, the biggest thing for the equality is for both partners to be on eye level; they should be able to feel that each one has a role to play. Roles may be different, but it is with full discussion, full appreciation, and not a one-way street. Activities may be unequal, in a sense that they might be more mobility to the one side or the other, but there the important principle is complementarity. (MRUP2)

In its staff exchanges, MRU generally applies the principle that ‘the home institution pays for the travel, the host will pay for the housing’ (MRUP2) to mobility taking place under the

umbrella of international partnerships. In order to facilitate its African collaborations, an ‘African Collaboration Grant’ has been initiated, which allows academics from MRU to apply for funding to bring an academic from a partner institution (MRUP2). In addition, a similar funding scheme for BRICS collaborations is being developed.

Equality in student exchanges is considered especially challenging to achieve; the institution applies the principle of ‘asymmetrical exchanges’ to facilitate student exchanges. A higher number of students (typically three) would be accepted with a fee waiver, and one student would be sent to a northern partner with a tuition waiver and a housing scholarship (MRUP2). Regular meetings are held with core partners to discuss plans and activities for the next two to three years. In addition, regular contact seminars connect academics who have been involved for an extended period in the partnership with those who have recently started participating in the collaborative work. The seminars involve relevant academic support departments, such as research offices and communications offices. Good communication is regarded as central to the success of the partnership (MRUP2).

Academics at MRU appreciate the need for equality in international partnerships and hold different views. One senior academic observed:

I would say that bilateral agreements should be equal in a sense that, although partners on both sides of the equator bring different qualities to the table, those should also be considered equally. (MRUP5)

An academic in the department of modern foreign languages was less specific and remarked that ‘equality is a principle that should underlie any relationship, and I can imagine that that would also apply to this kind of partnership’ (MRUP3). Amongst the academic respondents, a sense that equality is required for both the scholarly and the monetary aspects of partnerships prevails (MRUP5). A respondent from the modern foreign languages department

indicated that the absence of exploitation related to geographical position or finances is a central tenet of equality (MRUP3).

Concerning the monetary contributions, there is an understanding that context should determine financial partnership contributions, while another academic pointed out that there should be sameness with regards to time and academic investment (MRUP3). Concerning the outcomes of partnerships, academics at MRU cherish equality but do not construe it to mean sameness:

So, again, equality, I would define it first place in terms of the nature of the research project, and I would say that equality should benefit both contexts; also it might be in different ways, and the equality can be best served by joint and collaborative research projects, which are done over the international divide. (MRUP5)

A respondent from the modern foreign languages department alluded to the relevance of language to equality and proposed that ‘staff members who are linguistically also adaptable and can function in the most strategic languages for the institution’ be appointed in the management and international offices to make advances in achieving equality (MRUP4).

- *Central University (CU)*

Equality is not a common term in the partnership discourse at CU. The SIO remarked that ‘we had not thought really about the term equality or equity before your questions came’ (CUP2). The administrator in the international centre explained that ‘equality plays a role in partnerships’, but qualified the statement by observing that ‘equality is an imminent feeling, you don’t have to set up a session “let’s talk about equality”.’ In her view, partnerships do not work in the absence ‘of this imminent feeling’. Mutuality is seen as a central element of equality, but with the caveat that the benefit devolving on the partners can differ (CUP2).

One of the academics interviewed referred to three dimensions of equality, namely, democratic equality, ethnic (including gender) equality, and equality as a layer of general

relations (CUP4). While the relationship with partner universities would not normally be framed in terms of equality considerations, it would be very important to avoid ‘looking down’ on partners, acting as the superior partner, and to avoid a subtle hegemonic agenda.

The head of the institute in which the joint Master’s degree programme with MRU is located also differentiated between different aspects of equality (CUP1). The office bearer differentiated between equality as a principle or norm, on the one hand, and the current reality of partnerships. The principle that partnerships should be happening at ‘eye level’ would be central, as well as the avoidance of paternalistic attitudes. The disciplinary focus of his unit on the language spoken in the country in which CU is located would, however, result in inherent inequalities in joint programmes with partner universities abroad in that the students based in partner countries would naturally have a strong interest in CU’s country, whereas students hailing from the country in which CU is located would typically take an interest in partner countries only as places where the language they study can be taught. One of the strategic principles of the institute which advances equality would be the principle of reciprocity in joint programmes, meaning that all student exchange must be bidirectional (CUP1).

A fundamental tenet of CU’s strategic attitude towards partnerships is that generally, in the case of scholarly exchange programmes, the home university pays for travel expenses whereas the host university pays for accommodation, which correlates with the approach of MRU. According to the SIO, there is sensitivity in the engagement with developing countries that wealth is unequally distributed; however, various stakeholders remarked that CU as a university located in a ‘rich’ country is not necessarily financially better positioned compared to a partner university situated in a developing context (CUP2, CUP3). One participant stated that equality in partnerships relates to various factors in achieving equality: the involvement of different stakeholders, their enthusiasm, and the gradual growth of the collaboration (CUP3).

Stakeholders are very aware of power dynamics, particularly between developed and developing contexts. The former executive acknowledged that postcolonial conditions and the preponderance of funding from the country in which CU is located would impact on equality partnerships, although this would only to a lesser extent be true of the partnerships in the country in which MRU is located. With regard to the financial aspects of equality, arithmetical parity would not be necessary, but financial contributions would be required. Inequalities would manifest in paternalistic relationships and impact on the perceptions of funding agencies on partners. He implied that this is caused by ‘late colonial power and dependency relations’ and different economic conditions, and conceded that this could not be changed quickly (CUP1).

Another respondent explained:

I always try to avoid a colonial approach, when I go to Africa. That is why I really have my diplomatic gloves on there, because ... I don't dare to really dive into all these nitty-gritty relationships, which are going on there, which are not in my view. That is why I prefer to talk about these issues with my counterpart personally beforehand. (CUP2)

Overall, while equality is not a central topic of the partnership discourse at CU, stakeholders demonstrate great sensitivity and differentiated views on the topic.

(e) Equality in the partnership

Underlying the relationship between CU and MRU appears to be trust and collegiality (CUP2, CUP4, MRUP2); no interview mentioned any breach of trust in the partnership's history. While the word ‘equality’ does not feature directly as a topic in the discourse between the stakeholders and between the universities, open conversations about funding, mutual benefit and consideration of the other partner's priorities are essential to the interaction between the universities. This, combined with the trust and openness for discussion of difficult topics between the universities, results in stakeholders from both universities confirming that the

partnership is equal when directly asked about this. Respondents indicated that, while equality is not the topic of express discussions, it is implied that it is foundational principle:

The point is, albeit we do not discuss this every day when we work together, there's an unspoken or unwritten rule that we are equal partners in this. We deliver different goods to the collaboration, but we are equal partners. (MRUP5)

EU funding has assisted in attaining equality and developing a joint Master's programme. A critical success factor for achieving equality in the partnership is, according to the SIO of MRU, the willingness of both sides to commit funding to the collaboration (MRUP2). The principle applied by both universities that 'the home institution pays for the travel, the host will pay for the housing' results in the different pricing levels for travel and accommodation in the countries in which the partners are located to be reflected in the contributions of the partners; consequentially, the contribution to the mobility is proportionate to the pricing in the respective country.

The involvement in the postgraduate education of students is cited as an essential manifestation of mutual recognition as established colleagues in the field (MRUP5). There are different perceptions of the support for partnership work and support for attaining equality in the partnership. One senior academic expressed satisfaction (MRUP5), while critical voices emanated from another academic department (MRUP4), with the interviewee doubting management commitment while cherishing the personal support of the SIO and the institution's international office. The other academic respondent (MRUP5) felt valued like a local staff member when visiting CU. However, he critically observed that there are shortcomings in the support for mobile postgraduate students at CU.

Stakeholders from CU are very aware of the risk of being perceived as imperialistic or colonial. To avoid this, a self-critical attitude would be required:

Even, if there is no particular reason, which I think is the case in what I see, there may be hidden, a blind spot that one is carrying around with oneself, that is what people like myself would have to be aware of, but not to fall back on things that do tend to colonise or at least give the impression that there would be such a thing at play. (CUP4)

This cautious attitude is reflected, for example, in student exchange nomination processes, whereby CU does not interfere with nomination processes and ‘leaves the application of equality rules to MRU, rather than interfering from an imperial point of view’ (CUP2).

A specific dimension of equality which is evident in the partnership between CU and MRU is racial equality. The Master’s programme in modern foreign languages has mostly white students, which may result in the more generous acceptance of students of colour (CUP1). Other equality challenges in this joint programme originate from the different focus areas of the two collaborating entities. While CU’s institute is solely focused on linguistics, the collaborating department at MRU has an additional focus on literature studies. This would at times result in perceived inequalities based on academic reasons, in that CU students would at times not consider themselves sufficiently prepared for exposure to literature studies at MRU, whereas MRU students would experience challenges related to linguistic ability and fluency (MRUP3).

Achieving equality may have been easier in this partnership because the Southern partner is a university which is, considering its context, relatively well-resourced and able to contribute substantively to the budget. For example, one participant from CU recalls that he attended a workshop at MRU which was independently organised and financed by MRU (CUP4).

VI. Conclusion

The case studies afforded deep insight into the dynamics of equality in the four analysed university partnerships. The four case studies demonstrate that there is presently no uniform understanding of equality in higher education partnerships of divergent strength. For example, an academic leader at BU observed that ‘it does not have a single definition’ (BUP2). The different conceptual approaches to equality are perceived as detrimental to the acceptance of

equality as a central tenet of higher education partnerships. As observed by the SIO of PU, ‘this could be different if there would be a common, broadly accepted definition of equality’ (PUP2). A member of its executive emphasised that there ‘should be a shared understanding of what equality is’ (PUP3).

Interestingly, none of the partnerships is characterised by existential equality challenges, and the majority of participants are open-minded with regard to equality as a fundamental value of international higher education partnerships. However, caution must be exercised with regard to the generalisability of findings: Identifying university partnerships where both partners were willing to participate proved challenging, and there was the possibility that partners to relationships with strong equality challenges were not willing to participate. In other words, it is possible that the researcher was granted the opportunity to conduct case studies only where the gatekeepers were comfortable with sharing their insights into the equality dynamics of a partnership.

To varying extents, all universities included in the case studies reported equality challenges in select circumstances but were able to manage them. However, the dynamics of the four partnerships should not be generalised. In view of the difficulties in obtaining consent to conduct research on partnerships, care must be taken not to assume that all partnerships are able to thrive in spite of inequalities in the nature and context of the partnerships. There is a real possibility that the required high-level consent resulted in the researcher being denied access to partnerships that are struggling or failing as a result of equality challenges. In the discussion below, the researcher will analyse whether recourse to a four-dimensional conception of substantive equality could assist in overcoming the limited equality challenges which were encountered in the four mini case studies.

The qualitative data will be further evaluated in chapter 6, in which a deductive thematic analysis will integrate the data emanating from the case studies with the data emanating from

the survey presented in chapter 3 and the analysis of the substantive equality jurisprudence of the South African Constitutional Court to determine the suitability of a four-dimensional concept of substantive equality for the partnership context.

CHAPTER FIVE: EVALUATION OF THE JURISPRUDENCE OF THE SOUTH AFRICAN CONSTITUTIONAL COURT AGAINST THE FOUR DIMENSIONS OF SUBSTANTIVE EQUALITY

I. Introduction

In preparing for the formulation of a proposed definition of substantive equality for the context of higher education partnerships, a thorough analysis of the equality jurisprudence of the South African Constitutional Court against the four dimensions of substantive equality proposed by Fredman will be undertaken. The purpose of the chapter is to determine whether Fredman's four-dimensional understanding can deepen the understanding of substantive equality. The equality jurisprudence of the South African apex court has been selected based on its transformative character⁶³² and its thorough engagement with the concept of substantive equality. Besides, the case law of the South African apex court is recognised for its consistent adoption of substantive equality as the basis of its equality jurisprudence.⁶³³ Equality is a central tenet of the South African democracy,⁶³⁴ and a cornerstone of the Constitution of South Africa,⁶³⁵ which South Africans sometimes proclaim to be one of the best in the world.⁶³⁶

⁶³² See, for example, Karl E Klare 'Legal culture and transformative constitutionalism' (1998) 14 *South African Journal on Human Rights* 146; Sandra Liebenberg & Beth Goldblatt 'The interrelationship between equality and socio-economic rights under South Africa's transformative Constitution' (2007) 23 *South African Journal on Human Rights* 335; Catherine Albertyn '(In)equality and the South African Constitution' (2019) 36 *Development Southern Africa* 751.

⁶³³ See, for example, Anne Smith 'Equality constitutional adjudication in South Africa' (2014) 14 *African Human Rights Law Journal* 609.

⁶³⁴ Evance Kalula & Graham Leslie 'Editorial' (2001) 5 *International Journal of Discrimination and the Law* 99 at 100.

⁶³⁵ Equality permeates the entire South African Constitution. See, for example, Waheeda Amien 'Overcoming the conflict between the right to freedom of religion and women's rights to equality: A South African case study of Muslim marriages' (2006) *Human Rights Quarterly* 729 for an exposition of the prominent position of the equality norm in the South African Constitution.

⁶³⁶ The claim that the South African Constitution is one of the best in the world is frequently made in the media. See, for example, Brand South Africa 'Eighteen years of the world's best Constitution' (2014), available at <https://www.brandsouthafrica.com/people-culture/history-heritage/eighteen-years-of-the-world-s-best-constitution> (accessed 6 September 2021) and Business Day Human Rights Day 'A Progressive Constitution', available at <https://businessmediamags.co.za/xtrending/a-progressive-constitution/#:~:text=%E2%80%99South%20Africa%20has%20the%20best,justice%20and%20fundamental%20human%20rights.%E2%80%99D> (accessed 6 September 2021), which refers to a statement of Chris Nissen, a

Section 1 of the Constitution sets out the Republic of South Africa's structural principles and is among the constitutional provisions which entrench equality as a founding value.⁶³⁷ It is mandatory that 'the values that underlie an open and democratic society based on human dignity, equality and freedom' are promoted and that international law is considered when any 'court, tribunal or forum' interprets the Bill of Rights.⁶³⁸ Limitations of those rights are permissible only if they are 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking relevant factors in account'.⁶³⁹ Furthermore, section 9 of the South African Constitution contains a comprehensive equality clause:

- (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- (3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social

member of the South African Human Rights Commission: 'South Africa has the best Constitution in the world. It is hailed by many and used as an example for many other countries. It is a model for law and constitutional experts.'

⁶³⁷ Section 1 of the Constitution provides:

'The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- (b) Non-racialism and non-sexism.
- (c) Supremacy of the constitution and the rule of law.

(d) Universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.'

Equality as a founding value is also referred to in section 7(1) of the Constitution, which states that the Bill of Rights affirms the democratic values of 'human dignity, equality and freedom', and section 39(1) of the Constitution, which requires courts, tribunals and fora to 'promote the values that underlie an open and democratic society based on human dignity, equality and freedom'.

⁶³⁸ Section 39(1) of the Constitution provides:

'(1) When interpreting the Bill of Rights, a court, tribunal or forum -

(a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;

(b) must consider international law; and

(c) may consider foreign law.'

⁶³⁹ Section 36 of the Constitution provides:

'(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including -

- (a) the nature of the right;
- (b) the importance of the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the relation between the limitation and its purpose; and
- (e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.'

origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

The South African Constitutional Court was established in 1994, inspired by the desire to create a new institution which would protect fundamental rights and introduce a new era of constitutional jurisprudence which would break away from the inclination of the apartheid judicial system to implement fundamentally unjust laws.⁶⁴⁰ The court's formation was the outcome of negotiations which resulted in the peaceful transition of South Africa from apartheid to democracy.⁶⁴¹ The 1993 South African Constitution assigned it the critical role of certifying that the country's Constitution would comply with the 'solemn pact recorded as Constitutional Principles',⁶⁴² and the court would be the 'ultimate arbiter in Constitutional matters'.⁶⁴³ The court has been central to South Africa's transformation from a state of institutionalised inequality to a country based on 'a democratic system of government committed to achieving equality between men and women and people of all races'.⁶⁴⁴

The South African Constitution provided the roadmap for transforming the country from a state of inequality to a society based on the rule of law, equality, human dignity and *ubuntu*.⁶⁴⁵ The Constitution was adopted in 1996, based on the 1993 Constitutional Principles.⁶⁴⁶ It aspires

⁶⁴⁰ See, for example, Dennis M Davis 'South African constitutional jurisprudence: The first 15 years' (2010) 6 *Annual Review of Law and Social Science* 285.

⁶⁴¹ Johann Kriegler 'The Constitutional Court of South Africa' (2003) 36 *Cornell International Law Journal* 361 at 363.

⁶⁴² Preamble to the South African Interim Constitution of 1993, see para 15 of the *Certification* decision.

⁶⁴³ Kriegler op cit note 641.

⁶⁴⁴ Roger B Beck *The History of South Africa* (2000) 393.

⁶⁴⁵ For a complete exposition of the historical and political developments which resulted in the adoption of the South African Constitution, see *Certification of the Constitution of the Republic of South Africa* supra note 642 paras 5–21. The meaning and interpretation of *ubuntu* by the South African Constitutional Court is discussed in chapter 6 III(c).

⁶⁴⁶ *Ibid* para 15.

to contribute to a South Africa ‘that belongs to all who live in it, united in our diversity’ and to ‘heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights’.⁶⁴⁷ Equality is situated ‘at the very heart’ of the Constitution,⁶⁴⁸ and the achievement of equality is considered essential to the transformation process.⁶⁴⁹ However, the court aptly remarked that ‘our country, unfortunately, has great experience in constitutionalising inequality, it is a newcomer when it comes to ensuring constitutional respect for equality’.⁶⁵⁰ The court explained that the equality doctrine should be allowed ‘to develop slowly and, hopefully, surely’.⁶⁵¹ This process has unfolded over a period exceeding more than a quarter-century, leading to the evolution of a comprehensive, transformative body of jurisprudence engaging with substantive equality.

From the outset, the South African Constitutional Court took a transformative approach to the interpretation of the right to equality, which contextualises it against the need to redress the systematic inequality emanating from the country’s apartheid history, the ‘deep scars’ created in society and the systematic discrimination entrenched during this period.⁶⁵² The court tests compliance with the requirement of section 9(1) that everyone is equal before the law, utilising a test which was set out in *Harksen*:

Does the provision differentiate between people or categories of people? If so, does the differentiation bear a rational connection to a legitimate government purpose? If it does not, then there is a violation of section 8(1). Even if it does bear a rational connection, it might nevertheless amount to discrimination.⁶⁵³

⁶⁴⁷ South African Constitution, Preamble.

⁶⁴⁸ *Fraser v The Children’s Court, Pretoria North and Others* 1997 (2) SA 261 (CC) para 20.

⁶⁴⁹ Catherine Albertyn & Beth Goldblatt ‘Facing the challenge of transformation: Difficulties in the development of an indigenous jurisprudence of equality’ (1998) 14 *South African Journal on Human Rights* 248.

⁶⁵⁰ *Prinsloo v Van der Linde and Another* 1997 (3) SA 1012 (CC) para 20.

⁶⁵¹ *Ibid.*

⁶⁵² *Brink v Kirkhoff* 1996 (4) SA 197 (CC) paras 40–41.

⁶⁵³ *Harksen v Lane* 1998 (1) SA 300 (CC) para 53.

Peculiar to the equality clause of the South African Constitution is that it expressly provides for affirmative measures to advance the achievement of equality.⁶⁵⁴ In addition, it does not contain a closed catalogue of grounds for discrimination but enumerates grounds of discrimination in subsection (3) which, according to subsection (5), are presumed to be unfair unless it can be established that they are fair. This allows the courts to develop analogous grounds of discrimination, for which, however, unfairness must be established. In the *Harksen*⁶⁵⁵ decision, the South African Constitutional Court formulated the test to establish discrimination:

- (a) Does the differentiation amount to unfair discrimination? This requires a two stage analysis:
- (b)(i) Firstly, does the differentiation amount to ‘discrimination’? If it is on a specified ground, then discrimination will have been established. If it is not on a specified ground, then whether or not there is discrimination will depend upon whether, objectively, the ground is based on attributes and characteristics which have the potential to impair the fundamental human dignity of persons as human beings or to affect them adversely in a comparably serious manner.
- (b)(ii) If the differentiation amounts to ‘discrimination’, does it amount to ‘unfair discrimination’? If it has been found to have been on a specified ground, then unfairness will be presumed. If on an unspecified ground, unfairness will have to be established by the complainant. The test of unfairness focuses primarily on the impact of the discrimination on the complainant and others in his or her situation. If, at the end of this stage of the enquiry, the differentiation is found not to be unfair, then there will be no violation of section 8(2).
- (c) If the discrimination is found to be unfair then a determination will have to be made as to whether the provision can be justified under the limitations clause (section 33 of the Interim Constitution).⁶⁵⁶

The court has consistently applied the *Harksen* test in its equality jurisprudence. While the codification of the right to equality in the Constitution does not expressly refer to the concept of substantive equality, the court recognised already in its early equality decisions that the concept is intrinsic to section 9. The early equality jurisprudence of the court engaged with

⁶⁵⁴ Fredman op cit note 29 at 267. This was confirmed and elaborated upon by the South African Constitutional Court in *Minister of Finance and Another v Frederik Jacobus Van Heerden* 2004 (6) SA 121 (CC), which is discussed in more detail below.

⁶⁵⁵ *Harksen v Lane NO and Others* supra note 653.

⁶⁵⁶ *Ibid* at para 53.

overcoming the existing patterns of disadvantage.⁶⁵⁷ Ackermann J noted in *National Coalition for Gay and Lesbian Equality v Minister of Justice*⁶⁵⁸ that the court had already in *Hugo*,⁶⁵⁹ a case which had also been decided in terms of the interim Constitution, ‘encapsulated the notion of substantive equality as opposed to formal equality’.⁶⁶⁰ In the *Hugo* case, the court held that identical treatment could not be insisted on in all circumstances, pronouncing that ‘a classification which is unfair in one context may not necessarily be unfair in another’.⁶⁶¹ In a footnote the court explained that ‘it is the logical corollary of the principle that ‘like should be treated like’, and that ‘treating unlike alike may be as unequal as treating like unlike’.⁶⁶² The South African Constitutional Court consistently pronounced that section 9 of the South African Constitution ‘guarantees the achievement of substantive equality’,⁶⁶³ but the court is equally consistent in holding that it ‘encompasses both the notions of formal and substantive equality’.⁶⁶⁴

In *National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others*,⁶⁶⁵ the court stated that the South African Constitution contemplates substantive equality. This case concerned the constitutional validity of laws relating to sodomy. The court found that the laws violated the right to equality because they constituted discrimination based on sexual orientation and infringed the dignity of gay men. Ackermann J, writing for the majority, stated that the Constitution would envisage a substantive conceptualisation of equality:

⁶⁵⁷ See *ibid* and *President of the Republic of South Africa and Another v Hugo* 1997 (4) SA 1 (CC).

⁶⁵⁸ *National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others* 1999 (1) SA 6 (CC).

⁶⁵⁹ *President of the Republic of South Africa and Another v Hugo* *supra* note 657.

⁶⁶⁰ *National Coalition for Gay and Lesbian Equality* *supra* note 658 at para 61.

⁶⁶¹ *President of the Republic of South Africa and Another v Hugo* *supra* note 657 at para 41.

⁶⁶² *Ibid* at para 42.

⁶⁶³ *Bhe and Others v Khayelitsha Magistrate and Others* 2005 (1) SA 580 (CC) para 50.

⁶⁶⁴ *Head of Department: Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC).

⁶⁶⁵ *National Coalition for Gay and Lesbian Equality* *supra* note 658.

Substantive equality is envisaged when section 9(2) unequivocally asserts that equality includes ‘the full and equal enjoyment of all rights and freedoms.’ The State is further obliged ‘to promote the achievement of such equality’ by ‘legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination’, which envisages remedial equality.⁶⁶⁶

Concurring with the majority, Sachs J observed in a judgment which expressed sentiments agreed to by the other judges that the court had promoted a substantive as opposed to a formal conception of equality,⁶⁶⁷ looking ‘at the matter from the perspective of those whose life and sense of self-worth are affected by the measures’.⁶⁶⁸

The court further clarified its understanding of substantive equality when it was called upon to pronounce on the interpretation of section 9(2) of the South African Constitution in *Minister of Finance and Another v Frederik Jacobus van Heerden*.⁶⁶⁹ This case concerned differential rules in a pension fund scheme for political office bearers. The pension fund essentially disadvantaged members of parliament who had been in office before the first South African democratic elections in 1994 in that it provided for lower employer contributions for the period 27 April 1994 to 30 April 2020. Writing for the majority, Moseneke J analysed the nature of substantive equality:

This substantive notion of equality recognises that besides uneven race, class and gender attributes of our society, there are other levels and forms of social differentiation and systematic under-privilege, which still persist. The Constitution enjoins us to dismantle them and to prevent the creation of new patterns of disadvantage. It is therefore incumbent on courts to scrutinise in each equality claim the situation of the complainants in society; their history and vulnerability; the history, nature and purpose of the discriminatory practice and whether it ameliorates or adds to group disadvantage in real life context, in order to determine its fairness or otherwise in the light of the values of our Constitution. In the assessment of fairness or otherwise a flexible but ‘situation-sensitive’ approach is indispensable because of shifting patterns of hurtful discrimination and stereotypical response in our evolving democratic society.⁶⁷⁰

⁶⁶⁶ Ibid at para 62.

⁶⁶⁷ Ibid at para 121.

⁶⁶⁸ Ibid.

⁶⁶⁹ *Minister of Finance and Another v Frederik Jacobus van Heerden* supra note 654.

⁶⁷⁰ Ibid at para 27.

The analysis will now proceed to locate the four dimensions of substantive equality in the jurisprudence of the South African Constitutional Court. The focus will be on cases in which substantive equality was expressly considered; the respective discussions will focus on the dimension of equality which is foregrounded in the decision. However, it must be considered that the four dimensions of equality advanced by Fredman are intrinsically interwoven and interdependent, and their objectives are complementary and interrelated.⁶⁷¹ The overlapping dimensions intercede and reinforce each other, thus allowing for a differentiated and synergistic symbiosis.

II. Breaking the cycle of disadvantage: Redistributive dimension

Targeting disadvantage, the purpose of the redistributive dimension of substantive equality is to affirm disadvantaged groups, thereby it aims to overcome the detrimental consequences of an individual's membership of a specific group.⁶⁷² The South African Constitution is one of the world's constitutions which includes an express commitment to affirmative action⁶⁷³ as well as to justiciable socio-economic rights.⁶⁷⁴ The court recognises that substantive and remedial equality is contemplated by section 9(2) of the Constitution. In the landmark *Van Heerden*⁶⁷⁵ decision, in which the court set out its basic understanding of substantive equality in relation to affirmative action, it remarked that it follows an interpretation of section 9(2) based on substantive equality, which includes the notion of redress for unfair discrimination:

⁶⁷¹ Sandra Fredman 'Emerging from the shadows: Substantive equality and article 14 of the European convention on human rights' (2016) 16 *Human Rights Law Review* 1 at 10.

⁶⁷² Fredman op cit note 29 at 60.

⁶⁷³ Section 9(2) of the South African Constitution.

⁶⁷⁴ Including the right to housing (section 26 of the South African Constitution), the right to healthcare, water and social security (section 27 of the South African Constitution) and the right to education (section 29 of the South African Constitution). See Courtney Jung, Ran Hirschl & Evan Rosevear 'Economic and social rights in national constitutions' (2014) 62 *The American Journal of Comparative Law* 1043 at 1052.

⁶⁷⁵ *Minister of Finance and Another v Frederik Jacobus van Heerden* supra note 654.

[S]ection 9(2) provides for the achievement of full and equal enjoyment of all rights and freedoms and authorises legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination. Restitutionary measures sometimes referred to as ‘affirmative action’, may be taken to promote the achievement of equality. The measures must be ‘designed’ to protect or advance persons disadvantaged by unfair discrimination in order to advance the achievement of equality.⁶⁷⁶

The court held that ‘remedial or restitutional equality’ is included in the constitutional understanding of equality.⁶⁷⁷ The court set out a three-tier substantive test to determine whether a measure falls within the ambit of section 9(2) of the Constitution:

The first yardstick relates to whether the measure targets persons or categories of persons who have been disadvantaged by unfair discrimination; the second is whether the measure is designed to protect or advance such persons or categories of persons; and the third requirement is whether the measure promotes the achievement of equality.⁶⁷⁸

The Court held that the three requirements were met *in casu* and upheld the appeal, thereby confirming the validity of the pension scheme.⁶⁷⁹

The *Van Heerden* test was confirmed and applied by the Constitutional Court in the *Barnard*⁶⁸⁰ decision, in which the court had to adjudicate on a decision by the South African Police Service (SAPS) not to appoint a white female employee (Mrs Barnard) to the position of superintendent, although she had emerged in the interviews as the most suitable candidate. The reason advanced was that the recommendations by the Provincial and Divisional Commissioners, which included her appointment, ‘do not address representivity and the posts are not critical and the non-filling of the posts will not affect service delivery’.⁶⁸¹

⁶⁷⁶ Ibid at para 28.

⁶⁷⁷ Ibid at para 30.

⁶⁷⁸ Ibid at para 37.

⁶⁷⁹ Ibid at para 66.

⁶⁸⁰ *South African Police Service v Solidarity obo Barnard* 2014 (6) SA 123 (CC).

⁶⁸¹ Ibid at para 15.

The court was unanimous in upholding the appeal against the earlier decision of the Supreme Court of Appeal, which had found that this constituted unfair discrimination on the ground of race. The majority judgment penned by Moseneke ACJ emphasised the transformative character of South Africa's Constitution and its commitment to substantive equality,⁶⁸² including restitution and affirmative action measures.⁶⁸³ The majority judgment stated that the *Van Heerden* test had to be applied to determine whether a restitution measure falls within the ambit of section 9(2) of the Constitution,⁶⁸⁴ in which case the measure cannot be considered unfair.⁶⁸⁵

However, the court has not always been undivided in its interpretation of section 9(2) of the Constitution. In *Minister of Constitutional Development and Another v South African Restructuring and Insolvency Practitioners Association and Others*⁶⁸⁶ the majority decision, which was authored by Jafta J, considered a policy⁶⁸⁷ which was meant 'to promote consistency, fairness, transparency and the achievement of equality for persons previously disadvantaged by unfair discrimination'⁶⁸⁸ to be unconstitutional and invalid. The policy regulated the appointment of insolvency practitioners by the Master of the High Court. It required recourse to lists which were based on race, gender and citizenship prior to 27 April 1994,⁶⁸⁹ and were

⁶⁸² Ibid at para 29.

⁶⁸³ Ibid at para 35.

⁶⁸⁴ Ibid at para 36.

⁶⁸⁵ Ibid at para 37.

⁶⁸⁶ *Minister of Constitutional Development and Another v South African Restructuring and Insolvency Practitioners Association and Others* 2018 (5) SA 349 (CC).

⁶⁸⁷ The empowering provisions were section 158 of the Insolvency Act 24 of 1936, section 10(1A)(a) of the Close Corporations Act 69 of 1984 and section 339 of the Companies Act 61 of 1973, read with section 158(2) of the Insolvency Act.

⁶⁸⁸ *Minister of Constitutional Development and Another v South African Restructuring and Insolvency Practitioners Association and Others* supra note 686 para 4.

⁶⁸⁹ The first democratic elections in South Africa were held on this date.

generally compiled in alphabetical order.⁶⁹⁰ The only residual discretion which remained vested in the Master was to appoint a senior practitioner to join an unsuitable practitioner on the list.⁶⁹¹

In the opinion of the majority, the core legal concern with the policy was that it would, in the largest category,⁶⁹² which included all white males as well as members of all other demographic groups who became citizens since 27 April 1994, place together ‘African, Coloured, Indian and Chinese practitioners with the advantaged white males who dominate the entire industry in terms of numbers and [it] affords everybody in this category an equal opportunity of being appointed’.⁶⁹³ Furthermore, the majority held that this category ‘impermissibly discriminates against other races on the ground that they became citizens on or after 27 April 1994’.⁶⁹⁴ The majority was of the view that the policy did not meet the requirements of the *Van Heerden* test and thus fell outside the ambit of section 9(2) of the Constitution.⁶⁹⁵ In addition, the limitation of the Master’s discretion would infringe the principle of legality in that the Minister acted *ultra vires* by completely eroding the Master’s discretion.⁶⁹⁶

In a minority judgment, Madlanga J extensively argued from the perspective of substantive equality and upheld the validity of the policy as a whole, while considering ‘the lumping with white men in category D of all practitioners – regardless of race – who attained citizenship on or after 27 April 1994 [to be] constitutionally invalid’.⁶⁹⁷ He completely opposed the majority’s argument that the policy was irrational and ‘not reasonably capable of achieving equality’,⁶⁹⁸

⁶⁹⁰ *Minister of Constitutional Development and Another v South African Restructuring and Insolvency Practitioners Association and Others* supra note 686 paras 19–21 set out the criteria for the compilation of the lists.

⁶⁹¹ Ibid at para 25.

⁶⁹² Category D.

⁶⁹³ At para 42.

⁶⁹⁴ Ibid.

⁶⁹⁵ Ibid.

⁶⁹⁶ Ibid at paras 27–32.

⁶⁹⁷ Ibid at para 70.

⁶⁹⁸ Ibid at para 94.

arguing that ‘before invalidating a measure meant to achieve substantive equality for being rigid, it must be looked at in context or in a “situation-sensitive” manner. It can never be a one-size-fits-all.’⁶⁹⁹ The judgment partially derived its insight from taking judicial notice of the fact ‘that white people and their entities tend to appoint white professionals for all manner of activity’.⁷⁰⁰

‘[W]hat the Act that introduces the policy seeks to achieve and whether the process as a whole is consonant with that’ is critical.⁷⁰¹ Madlanga J did not limit the enquiry to the appointment of insolvency practitioners for the provisional stage, with which the policy was concerned, but widened it to include the dominance of white male practitioners at the final stage of the process.⁷⁰² In his view, ‘unfairly obtained disproportionate experience’, particularly that of white males, should not result in undue preference, and this should be eliminated through a ‘simple practical formula that eliminates any possibility of undue preference’.⁷⁰³ The mechanism provided in the policy for the appointment of insolvency practitioners was a ‘transparent and consistent process’ which would eliminate ‘unfair, unjustified preference’.⁷⁰⁴

The interpretation of section 9(2) as an instance of substantive equality was confirmed by the Constitutional Court in the recent case, *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others*.⁷⁰⁵ This case concerned the judicial enforcement of contractual terms which may contravene public policy. The applicants, who operated ‘businesses in terms of a black economic empowerment initiative’,⁷⁰⁶ had failed to renew a lease agreement within the timeframe stipulated in the agreement, and sought an order declaring

⁶⁹⁹ Ibid at para 80.

⁷⁰⁰ Ibid at para 67.

⁷⁰¹ Ibid at para 76.

⁷⁰² Ibid at para 82.

⁷⁰³ Ibid at para 78.

⁷⁰⁴ Ibid at para 78.

⁷⁰⁵ *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others* supra note 452.

⁷⁰⁶ Ibid at para 197.

the late exercise of their renewal option to be valid. The majority judgment, written by Theron J, refused the applicants the desired relief because they had ‘failed to discharge the onus of demonstrating that the enforcement of the impugned contractual terms would be contrary to public policy’.⁷⁰⁷ The judgment confirmed the notion expressed in *Van Heerden*⁷⁰⁸ that section 9(2) of the ‘Constitution enjoins courts to actively advance substantive equality by dismantling the various patterns of disadvantage that still plague our society’.⁷⁰⁹ It also noted that ‘[c]onstitutional values have an essential role to play in the development of constitutionally-infused common law doctrines’.⁷¹⁰ However, in light of the requirement of the rule of law ‘that the law be clear and ascertainable’, constitutional values can be taken into account only when determining whether a contractual provision is contrary to public policy, but not as ‘a free-standing basis upon which a court may interfere in contractual relationships’.⁷¹¹

The lawfulness of the state applying the law differently in divergent contexts and thus affirming disadvantaged groups came to the fore in *City Council of Pretoria v Walker*.⁷¹² In this matter, the court had to decide on the legality of different utility charges which depended on the area of residence, with higher charges being levied in areas which were formerly regarded as ‘white’ as opposed to areas which had been categorised as ‘black’. In addition, the City Council litigated only against defaulters in ‘formerly “white” areas’. The applicant contended that this amounted to unfair discrimination. The majority judgment formulated by Langa DP regarded the differentiation as amounting to indirect discrimination based on race. However, the judgment considered only the selective recovery of debt as resulting in unfair discrimination, whereas the discrimination relating to the different rates was not unfair. The

⁷⁰⁷ Ibid at para 102.

⁷⁰⁸ *Minister of Finance and Another v Frederik Jacobus van Heerden* supra note 654.

⁷⁰⁹ *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others* supra note 515 at para 99.

⁷¹⁰ Ibid at para 78.

⁷¹¹ Ibid at para 79.

⁷¹² *City Council of Pretoria v Walker* 1998 (2) SA 363 (CC).

majority judgment nevertheless dismissed the appeal, reasoning that ‘other, more practical remedies would have been available’.⁷¹³ Agreeing with the rest of the judgment and the order, Sachs J disagreed with the notion that the selective debt recovery amounted to unfair discrimination:

The result of my analysis is that if, in order to overcome patterns of disadvantage and create a united city, a council feels it necessary to apply the law differentially to residents in its area, it may do so, and may even be required to do so. Yet, in such a situation, it might well be obliged to develop a coherent and serious strategy which, looked at rationally and objectively, would be capable of advancing substantive equality and truly promoting the idea of a city of civic equals. Furthermore, it might be required to function in a manner that is open and above board in relation to all the persons likely to be affected, whether directly or indirectly, by any such a programme. Law enforcement always permits a degree of discretion which operates on a case by case basis. Yet, any form of systematic deviation from the principle of equal and impartial application of the law (as was the practice in the present case for a certain period), might well have to be expressed in a law of general application which would be justiciable according to the criteria of reasonableness and justifiability as set out in section 33.⁷¹⁴

Sachs J’s dissenting judgment, which however agreed with the order, is significant in that it recognises that the application of substantive equality may require differentiation in order to overcome patterns of disadvantage. Nevertheless, it does not open the doors for arbitrariness in the name of transformation but highlights the fact that the redistributive dimension of substantive equality has to be realised within the rule of law.

The connection between the founding value of equality and socio-economic rights was recognised in the landmark decision in *Grootboom*,⁷¹⁵ in which the Constitutional Court had to adjudicate the legality of the eviction of shack dwellers from an informal settlement which was located on illegally occupied land. In examining the case, the court started from the premise that the founding values entrenched in the South African Constitution, which include equality,

⁷¹³ Ibid at para 96.

⁷¹⁴ Ibid at para 141.

⁷¹⁵ *Government of the Republic of South Africa and Others v Grootboom and Others* 2001 (1) SA 46 (CC).

have to be realised. Noting that rights are interrelated and equally important,⁷¹⁶ the court developed the ‘reasonableness’ approach to the adjudication of socio-economic rights cases. The test applied by the court means that the state must show that the measures taken by the state to realise socio-economic rights are reasonable, considering the available resources. The court stressed that ‘[r]easonableness must be understood in the context of the Bill of Rights as a whole’ and explained that ‘[a] society must seek to ensure that the basic necessities of life are provided to all if it is to be a society based on human dignity, freedom and equality’.⁷¹⁷

In the *Khosa* decision⁷¹⁸ the court considered the relationship between the right to equality and socio-economic rights in the context of unfair discrimination. This case concerned foreigners who had attained permanent South African status in South Africa. They had been excluded by legislation from the benefit of specific social grants and had attained an order confirming the constitutional invalidity of those provisions in a lower court.⁷¹⁹ The majority judgment written by Mokgoro J confirmed the order of constitutional invalidity. Stressing the nexus between socio-economic rights and equality,⁷²⁰ she held that ‘[e]quality in respect of access to socio-economic rights is implicit in the reference to “everyone” being entitled to have access to such rights in section 27’.⁷²¹ The judgment emphasised that–

when the rights to life, dignity and equality are implicated in cases dealing with socio-economic rights, they have to be taken into account along with the availability of human and financial resources in determining whether the state has complied with the constitutional standard of reasonableness.⁷²²

⁷¹⁶ Ibid at para 83.

⁷¹⁷ Ibid at para 44.

⁷¹⁸ *Khosa and Others v Minister of Social Development and Others; Mahlaule and Others v Minister of Social Development and Others* 2004 (6) SA 505 (CC).

⁷¹⁹ *Khosa and Others v Minister of Social Development* 2005 (4) SA 111 (TPD).

⁷²⁰ Ibid at para 40.

⁷²¹ Ibid at para 42. Section 27(1) of the South African Constitution entrenches the right to social security: ‘27(1) Everyone has the right to have access to–

(a) health care services, including reproductive health care;

(b) sufficient food and water; and

(c) social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.’

⁷²² Ibid at para 44.

In casu, the court considered ‘the equality rights entrenched in section 9’ of the Constitution to be directly implicated.⁷²³ The court decided that differentiation ‘must not be arbitrary or irrational nor must it manifest a naked preference’, that there ‘must be a rational connection between that differentiating law and the legitimate government purpose it is designed to achieve’,⁷²⁴ and that the law must not unfairly discriminate.⁷²⁵ Applying the principles set out in *Harksen*⁷²⁶ and following the precedent of the *Larbi-Odam* decision,⁷²⁷ it considered discrimination based on citizenship as an analogous ground and found that the impugned legislation falls in this category. It found the discrimination to be unfair, and not justifiable in terms of the limitation clause entrenched in section 36 of the Constitution.⁷²⁸

The *Khosa* decision⁷²⁹ also demonstrates how the different dimensions of substantive equality mutually reinforce and buttress each other. While the case essentially related to socio-economic exclusion, the recognition dimension of substantive equality provided important insights for the decision-making process. The judgment emphasised that ‘[t]he exclusion of permanent residents in need of social-security programmes forces them into relationships of dependency’,⁷³⁰ and ‘is likely to have a serious impact on the dignity of the permanent residents concerned who are cast in the role of supplicants’.⁷³¹

⁷²³ Ibid at para 49.

⁷²⁴ Ibid at para 53.

⁷²⁵ Ibid at para 68.

⁷²⁶ See supra the discussion of the principles set out in *Harksen v Lane NO and Others* supra note 653.

⁷²⁷ *Larbi-Odam and Others v Member of the Executive Council for Education (North-West Province) and Another* 1998 (1) SA 745 (CC).

⁷²⁸ Ibid at para 80.

⁷²⁹ *Khosa and Others v Minister of Social Development and Others; Mahlaule and Others v Minister of Social Development and Others* supra note 718.

⁷³⁰ Ibid at para 76.

⁷³¹ Ibid.

The interdependence of socio-economic rights with substantive equality is an important feature of contemporary constitutional jurisprudence in South Africa and advances the realisation of the distributive dimension of substantive equality. To fully unleash the transformative potential of socio-economic rights, it is important to interpret them in concordance with the notion inherent in substantive equality of assisting with overcoming the historic disadvantage suffered by blacks and other groups, including women and persons with disabilities. Thus, the judicial recourse to substantive equality when interpreting socio-economic rights, which is already evident in the socio-economic rights jurisprudence of the South African Constitutional Court, is welcome and should be further strengthened.⁷³²

III. Promoting dignity: The recognition dimension

The promotion of dignity and worth for all is the fulcrum of the recognition dimension of substantive equality.⁷³³ It reflects that equality is attached to all individuals pursuant to their basic humanity.⁷³⁴ Dignity and self-worth are central to the Constitutional Court's interpretation of the right to equality,⁷³⁵ and dignity 'is a value that informs the interpretation of many, if not all rights.'⁷³⁶ The Constitutional Court has given expression to the recognition dimension of substantive equality in various decisions about the right to equality.

The court further examined the nexus between equality and dignity in the *Hugo* case,⁷³⁷ which considered whether a presidential pardon for mothers with children under the age of 12

⁷³² This has, for example, been suggested by Liebenberg & Goldblatt op cit note 632 at 357, who argue that (a) the historical and current social context in which the claimant group is situated, and (b) the impact of the denial of access to the relevant socio-economic resource or service on this group should be considered as part of the reasonableness review.

⁷³³ Fredman op cit note 29 at 62; Sandra Fredman *Facing the Future: Substantive Equality under the Spotlight* (2010).

⁷³⁴ Ibid.

⁷³⁵ *National Coalition for Gay and Lesbian Equality* supra note 658 at para 121 (concurring judgment by Sachs J, which was supported by the other judges), referring to *President of the Republic of South Africa and Another v Hugo* supra note 657 at para 41; *Prinsloo v Van der Linde and Another* supra note 651 at paras 31–33 and *Harksen v Lane NO and Others* supra note 653 at para 50. See also Liebenberg & Goldblatt op cit note 632.

⁷³⁶ *Dawood and Another v Minister of Home Affairs and Others* 2000 (3) SA 936 (CC) para 35.

⁷³⁷ *President of the Republic of South Africa and Another v Hugo* supra note 657 at para 41.

would have to be extended to single fathers with children in the same age group. The majority judgment acknowledged that—

at the heart of the prohibition of unfair discrimination lies a recognition that the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity and respect regardless of their membership of particular groups.⁷³⁸

However, it concluded that *in casu* the right to dignity had not fundamentally impaired the group's 'rights of dignity or sense of equal worth'.⁷³⁹ In the landmark case, *National Coalition for Gay and Lesbian Equality v Minister of Justice*, the court considered the constitutionality of the common law offence of sodomy⁷⁴⁰ and other laws criminalising homosexual acts. The majority judgment acknowledged that gay men are a vulnerable group in society and noted that the impugned laws affect the 'dignity, personhood and identity of gay men at a deep level'.⁷⁴¹ When discussing the possible justification of the infringement of the right to dignity, Ackermann J considered the effect and impact of the laws on the vulnerable group of homosexual men. The court considered the violation of their right to dignity as a critical factor rendering the discrimination unfair.⁷⁴²

In *Hoffmann v South African Airways*⁷⁴³ the court confirmed the interdependence of the right of equality and the right of dignity. Here, the court considered the plight of an HIV-positive employment seeker, who was affected by the policy of South African Airways not to employ people living with HIV as cabin attendants. The court observed that 'at the heart of the

⁷³⁸ Ibid.

⁷³⁹ Ibid at para 48.

⁷⁴⁰ See Jonathan Burchell & John Milton *Principles of Criminal Law* 2 ed (1997) for a discussion of the common law offence of sodomy, which was defined as the 'unlawful and intentional sexual intercourse *per anum* between human males'.

⁷⁴¹ *National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others* supra note 658 at para 26.

⁷⁴² Ibid at 27.

⁷⁴³ *Hoffmann v South African Airways* 2001 (1) SA 1 (CC).

prohibition of unfair discrimination is the recognition that under our Constitution, all human beings, regardless of their position in society, must be accorded equal dignity.’⁷⁴⁴ It unanimously ordered the national carrier to offer employment to Mr Hoffmann.

The *Jordan*⁷⁴⁵ matter is an example of a case in which the majority judgment was unwilling to give effect to the recognition dimension of substantive equality in that it failed to appreciate the statutory differentiation between the female prostitute and the male client as discrimination on the basis of gender or sex. However, the case is also an example of how a sound legal argument expressed in a minority judgment can bring about law reform which ultimately results in the instance of indirect discrimination being remedied. The case concerned a sex worker, a brothel employee and a brothel keeper who had been convicted for contravening the Sexual Offences Act.⁷⁴⁶ The majority decision, which reasoned that the impugned provision was gender-neutral and neither directly nor indirectly discriminatory, and dismissed the matter, has been criticised for ‘adopting a formal rather than a substantive approach to equality’.⁷⁴⁷

O’Regan and Sachs JJ dissented and penned a minority judgment which established that the impugned provisions of the Sexual Offences Act constitute indirect discrimination based on sex. They argued that the provision’s ‘differential impact between prostitute and client’ reinforces patterns of sexual stereotyping, which is a result of the majority of sex workers being

⁷⁴⁴ Ibid at 27.

⁷⁴⁵ *S v Jordan and Others (Sex Workers Education and Advocacy Task Force and Others as Amici Curiae)* 2002 (6) SA 642 (CC). Also see Ronald Louw ‘The Constitutional Court upholds the criminalisation of sex work’ (2007) 57 *Urban Culture* 104.

⁷⁴⁶ The conviction in the lower courts was based on section 20(1)(aA) of the Sexual Offences Act 23 of 1957, which provided:

‘Persons living on earnings of prostitution or committing or assisting in commission of indecent acts. –
(1) Any person who –

...

(aA) has unlawful carnal intercourse, or commits an act of indecency, with any other person for reward;

...

shall be guilty of an offence.’

⁷⁴⁷ Smith op cit note 633 at 626.

women and consumers being men.⁷⁴⁸ Considering the ‘nature of the group discriminated against, the nature of the discriminatory provision or conduct, as well as the impact of the discrimination on those who complain of it’, the minority held that the discrimination was unfair. Observing the social practice of ‘sexual double standards’ which often regard men as ‘having given in to temptation’, whereas a prostitute is considered by most ‘to be beyond the pale’,⁷⁴⁹ they reasoned:

To the extent therefore that prostitutes are directly criminally liable in terms of section 20(1)(aA) while customers, if liable at all, are only indirectly criminally liable as accomplices or co-conspirators, the harmful social prejudices against women are reflected and reinforced. Although the difference may on its face appear to be a difference of form, it is in our view a difference of substance, that stems from and perpetuates gender stereotypes in a manner which causes discrimination.⁷⁵⁰

The call of the justices that ‘the law must be conscientiously developed to foster values consistent with our Constitution’⁷⁵¹ was ultimately heeded by the South African legislature, which enacted changes to the Sexual Offences Act in 2007, which remedy the unfair indirect discrimination identified by the minority and rendered engaging sexual services a criminal offence.⁷⁵²

The recognition of Muslim marriages came to the fore in *Daniels v Campbell*.⁷⁵³ The applicant was married in accordance with Muslim rites. When her husband died, the Master of

⁷⁴⁸ *S v Jordan and Others (Sex Workers Education and Advocacy Task Force and Others as Amici Curiae)* supra note 745 at para 60.

⁷⁴⁹ Ibid at para 64.

⁷⁵⁰ Ibid at para 65.

⁷⁵¹ Ibid at para 72.

⁷⁵² The indirect unfair discrimination which the minority judgment referred to in *S v Jordan and Others (Sex Workers Education and Advocacy Task Force and Others as Amici Curiae)* supra note 745 has been remedied by section 11 of the Sexual Offences Amendment Act 32 of 2007, which provides:

‘A person (‘A’) who unlawfully and intentionally engages the services of a person 18 years or older (‘B’), for financial or other reward, favour or compensation to B or to a third person (‘C’)–

(a) for the purpose of engaging in a sexual act with B, irrespective of whether the sexual act is committed or not; or

(b) by committing a sexual act with B,

is guilty of the offence of engaging the sexual services of a person 18 years or older.’

⁷⁵³ *Daniels v Campbell and Others* 2004 (5) SA 331 (CC). For an in-depth discussion of South African judicial response to Muslim marriages, see Amien op cit note 635.

the High Court told the applicant that she could not inherit from the deceased, because her marriage was not recognised. Writing for the majority, Sachs J held that for the purposes of inheriting or claiming from deceased estates, the word ‘spouse’ in the Intestate Succession Act⁷⁵⁴ must be interpreted to include Muslim marriages. Sachs J considered the interpretation afforded to the term by the Intestate Succession Act to be discriminatory, and observed:

The value of non-sexism is foundational to our Constitution and requires a hard look at the reality of the lives that women have been compelled to lead by law and legally-backed social practices. This, in turn, necessitates acknowledging the constitutional goal of achieving substantive equality between men and women.⁷⁵⁵

He noted that the applicant belonged to a vulnerable group and that the Act was intended to afford protection to widows.⁷⁵⁶ He stated that an interpretation of the word ‘spouse’, which gives effect to this purpose and includes, as the ordinary meaning of the word indicates, those married according to Muslim rites, must be applied.⁷⁵⁷ A second judgment penned by Ngcobo J agreed with the order, but held that the word ‘spouse’ must be interpreted in accordance with the affirmation of dignity and equality in the Constitution.⁷⁵⁸ Differing from the approach of the majority judgment and Ngcobo J, Moseneke J was of the view that the legislation could not be interpreted to include Muslim spouses.⁷⁵⁹ He opined that the ‘legislation infringes the substantive equality and dignity commitments of our Constitution and must be declared unconstitutional and invalid’,⁷⁶⁰ which could be remedied by reading in appropriate words. Thus, the recognition dimension of substantive equality was given effect to by all three judgments. By affirming Muslim marriages, the judgments also gave effect to the

⁷⁵⁴ Intestate Succession Act 81 of 1987.

⁷⁵⁵ *Daniels v Campbell and Others* supra note 753 at para 22.

⁷⁵⁶ *Ibid.*

⁷⁵⁷ *Ibid* at para 25.

⁷⁵⁸ *Ibid* at para 54.

⁷⁵⁹ *Ibid* at para 67.

⁷⁶⁰ *Ibid* at para 107.

transformation dimension of substantive equality because they accommodated their different marriage rites.

The proprietary consequences of Muslim marriages came to the fore in the *Hassam* matter.⁷⁶¹ Here, the court had to decide on the constitutionality of a law⁷⁶² which excluded partners to polygamous Muslim marriages from inheriting. The unanimous decision held that this constitutes unfair discrimination ‘on the listed grounds of religion, marital status and gender’, as had been argued by the applicant.⁷⁶³ Observing that the impugned discriminatory provision ‘reinforces a pattern of stereotyping and patriarchal practices that relegates women in these marriages to being unworthy of protection’,⁷⁶⁴ the court clarified that ‘the constitutional goal of achieving substantive equality will not be fulfilled’ if ‘widows to polygynous Muslim marriages were excluded from the benefits of the Act simply because their marriages were contracted by virtue of Muslim rites’.⁷⁶⁵ Thus, the court based its reasoning on the fulcrum of the recognition dimension of substantive equality, which protects and affirms basic humanity.

The recognition dimension of substantive equality was also evident in the dissenting judgment written by Sachs J in the *Volks*⁷⁶⁶ decision, in which the majority did not consider the distinction between married and unmarried persons by the Maintenance of Surviving Spouses Act,⁷⁶⁷ which allows claims for maintenance from the estate of a deceased person by spouses, to constitute unfair discrimination. Construing his argument through the lens of substantive equality, which requires ‘recognising patterns of systematic disadvantage in our society’, Sachs J argued that gender equality should be considered ‘intrinsic, not extraneous, to the

⁷⁶¹ *Hassam v Jacobs NO and Others* 2009 (5) SA 572 (CC).

⁷⁶² Section 1(4)(f) of the Intestate Succession Act 81 of 1987.

⁷⁶³ *Hassam* supra note 761 at para 9.

⁷⁶⁴ *Ibid* at para 37.

⁷⁶⁵ *Ibid* at para 38.

⁷⁶⁶ *Volks NO v Robinson and Others* 2005 (5) BCLR 446 (CC).

⁷⁶⁷ Maintenance of Surviving Spouses Act 27 of 1990.

interpretative enquiry'.⁷⁶⁸ Furthermore, he argued from the transformative substantive equality perspective in that he emphasised the value of tolerating difference, which in this case was other 'marriage-like, intimate and permanent relationships'.⁷⁶⁹ In his view, the test to determine whether the benefit of the Act should devolve should be whether there was 'a familial nexus of such proximity and intensity between the survivor and the deceased as to render it manifestly unfair to deny her the right to claim maintenance from the estate on the same basis as she would have if she and the deceased had been married'.⁷⁷⁰ Consequently, he held that *in casu* the discrimination was unfair and that the Maintenance of Surviving Spouses Act was 'invalid to the extent that it excludes unmarried survivors of permanent intimate life partnerships as identified above, from pursuing claims for maintenance'.⁷⁷¹ In addition to demonstrating the benefit of considering the different dimensions of substantive equality when adjudicating an equality claim, the case demonstrates that the South African Constitutional Court is not unanimous in boldly giving effect to substantive equality.

The synergies between the dimensions are also evident in that dignity is an important factor in the interpretation of cases dealing with socio-economic challenges. In both the *Grootboom* and *Khosa* cases discussed above the right to dignity was an important consideration. Yacoob J stated in *Grootboom* that '[t]he Constitution will be worth infinitely less than its paper if the reasonableness of state action concerned with housing is determined without regard to the fundamental constitutional value of human dignity',⁷⁷² thus indicating the interdependence of the recognition and the participation dimensions of substantive equality.

⁷⁶⁸ *Volks NO v Robinson and Others* supra note 766 at para 163.

⁷⁶⁹ *Ibid* at para 181.

⁷⁷⁰ *Ibid* at para 213.

⁷⁷¹ *Ibid* at para 236.

⁷⁷² *Grootboom v Government of the Republic of South Africa and Others* supra note 715 at para 83.

IV. Providing a voice: Participative dimension

The participative dimension of substantive equality aims to allow for full political and social participation in society.⁷⁷³ Substantive equality should provide a political voice to minorities and pave their way to full societal integration. An example of a case where the court gave effect to this dimension of substantive equality is the *Dawood* matter,⁷⁷⁴ in which the court considered the immigration rights of foreign spouses, although it was decided with reference to the right to dignity. This case involved an application by the spouses of South African permanent residents who wished to reside temporarily in South Africa ‘pending the outcome of their applications for immigration permits’.⁷⁷⁵ Temporary residence permits had been denied, and they were forced to sojourn abroad pending the outcome of their applications.⁷⁷⁶

The court had to decide on the constitutional protection of marital rights. It held that the right to dignity protects the right to enter into and sustain permanent intimate relationships⁷⁷⁷ and that it would be impaired by legislation which prohibits cohabitation.⁷⁷⁸ *In casu*, the limitation could not be justified and the court determined the relevant provisions of the Aliens Control Act to be inconsistent with the Constitution and therefore invalid,⁷⁷⁹ and directed that applicants who are spouses of South African citizens or permanent residents should not be denied permits ‘unless good cause for a refusal to issue such permits is established’,⁷⁸⁰ which must take the applicants’ constitutional rights into account.⁷⁸¹ The case demonstrates that aspects of substantive equality, which *in casu* may have been denied pursuant to the unequal

⁷⁷³ Fredman op cit note 29 at 59.

⁷⁷⁴ *Dawood and Another v Minister of Home Affairs and Others* supra note 736. See Andrew Konstant ‘Rights, administrative discretion and *Dawood*’ (2016) 32 *South African Journal on Human Rights* at 106.

⁷⁷⁵ *Dawood and Another v Minister of Home Affairs and Others* supra note 736 at para 38.

⁷⁷⁶ The denial was based on section 25(9) the Aliens Control Act 96 of 1991.

⁷⁷⁷ *Dawood and Another v Minister of Home Affairs and Others* supra note 736 at para 36.

⁷⁷⁸ Ibid para 37.

⁷⁷⁹ Ibid at para 70. The order of constitutional invalidity was, however, suspended for a period of two years.

⁷⁸⁰ Ibid.

⁷⁸¹ Ibid at para 67.

treatment of foreign and South African spouses and their exclusion from equal participation in marital life, can be realised without direct recourse to the constitutional right to equality. It is an example of the Constitutional Court giving effect to the participative dimension of substantive equality through judicial reasoning, which is based on the recognition dimension of substantive equality. Thus, it also demonstrates the intertwined nature of the dimensions of substantive equality, which assist in providing a deeper, multifaceted understanding of constitutional case law.

The participative dimension of substantive equality also resonates with the jurisprudence of the South African Constitutional Court relating to the rights of non-citizen permanent residents.⁷⁸² The court has consistently disapproved of legislation which discriminates between citizens and permanent residents but has upheld differentiation between citizens and permanent residents as opposed to temporary residents.⁷⁸³

This principle was first enunciated in the *Larbi Odam* decision,⁷⁸⁴ in which the court had to determine the constitutionality of laws which allowed only South African citizens to be appointed to permanent teaching positions.⁷⁸⁵ The judgment, which was handed down in terms of the interim Constitution's equality clause, considered citizenship an analogous ground for discrimination in terms of section 9(3) of the Constitution,⁷⁸⁶ because 'the differentiating ground of citizenship in regulation 2(2) is based on attributes and characteristics which have the potential to impair the fundamental human dignity of non-citizens hit by the regulation'.⁷⁸⁷

⁷⁸² Fredman op cit note 434.

⁷⁸³ Cornelius Hagenmeier, Tapiwa Shumba & Obeng Mireku 'The admission and enrolment of foreign legal practitioners in South Africa under the Legal Practice Act: International trade law and constitutional perspectives' (2016) 19 *Potchefstroom Electronic Law Journal* 18.

⁷⁸⁴ *Larbi-Odam v Member of the Executive Council for Education (North-West Province)* supra note 622.

⁷⁸⁵ Regulation 2(2) of the Regulations Regarding the Terms and Conditions of Employment of Educators (GN R 1743 of 13 November 1995).

⁷⁸⁶ *Larbi-Odam v Member of the Executive Council for Education (North-West Province)* supra note 622 para 45.

⁷⁸⁷ *Ibid* at para 21.

Nevertheless, the court differentiated permanent residents from temporary residents, and found the discrimination to be unfair only against the latter group,⁷⁸⁸ which was not a justifiable limitation.⁷⁸⁹

In the *Refugee Women* decision,⁷⁹⁰ the Constitutional Court considered the case of refugees who had applied for registration as security service providers and alleged that they had been unfairly discriminated against because of their refugee status. The majority dismissed the case, and Kondile AJ, writing for the majority, held that '[d]ifferentiating between citizens and permanent residents on the one hand, and all other foreigners on the other, therefore has a rational foundation and serves a legitimate governmental purpose'⁷⁹¹ which would be rooted in it being more difficult for them to demonstrate their trustworthiness.⁷⁹² However, in a dissenting judgment, O'Regan J and Mokgoro J considered the prohibition as infringing the applicants' right to equality in that it unfairly discriminated against them on the basis of their refugee status, because the 'potential discriminatory impact' of the impugned provision⁷⁹³ 'in excluding refugees from working as security service providers, both in terms of its material or financial impact and its social stigma are significant'.⁷⁹⁴ In addition to considering the impact of the exclusion from participation in the security industry, the dissenting judgment also referred to the recognition dimension in that the stigma and stereotyping also impacts the applicants' dignity,⁷⁹⁵ as well as the distributive dimension in that it has 'a severe impact on the ability of

⁷⁸⁸ Ibid at para 25.

⁷⁸⁹ Ibid at para 26.

⁷⁹⁰ *Union of Refugee Women and Others v Director, Private Security Industry Regulatory Authority and Others* 2007 (4) SA 395 (CC).

⁷⁹¹ Ibid at para 42.

⁷⁹² Ibid at para 39.

⁷⁹³ Section 23(1)(a) of the Private Security Industry Regulation Act 56 of 2001 provides:

'Any natural person applying for registration in terms of section 21(1), may be registered as a security service provider if the applicant is a fit and proper person to render a security service, and—

(a) is a citizen of or has permanent resident status in South Africa;

⁷⁹⁴ *Union of Refugee Women and Others v Director, Private Security Industry Regulatory Authority and Others* supra note 790 at para 123.

⁷⁹⁵ Ibid at para 117.

refugees to earn a livelihood in South Africa'.⁷⁹⁶ The reasoning of the minority illustrates how the different dimensions of substantive equality develop synergies and buttress one another.

V. Celebrating difference: Transformative dimension

The main aim of the transformative dimension of substantive equality is to affirm diversity and remove the detriment which attaches to difference,⁷⁹⁷ which often manifests itself in indirect discrimination. The affirmation and celebration of diversity is a golden thread in South African Constitutional Court's jurisprudence, although the court has failed to follow this principle consistently. In the landmark case *National Coalition for Gay and Lesbian Equality*, the court unequivocally stated:

The Constitution acknowledges the variability of human beings (genetic and socio-cultural), affirms the right to be different, and celebrates the diversity of the nation.⁷⁹⁸

While the court followed this reasoning in several landmark cases, there are also instances where the court not only failed to celebrate diversity but also failed to accommodate difference. In both the *Prince*⁷⁹⁹ and the *Jordan*⁸⁰⁰ cases the Constitutional Court missed opportunities to affirm groups which are considered to be on the fringe of society, namely Rastafarians and sex workers.⁸⁰¹ Interestingly, none of the judgments referred *expressis wordis* to substantive equality.

The *Prince* matter concerned a young law graduate who wished to be admitted as an attorney of the High Court of South Africa. He was not considered a fit and proper person to be

⁷⁹⁶ Ibid at para 122.

⁷⁹⁷ Fredman op cit note 29 at 65.

⁷⁹⁸ *National Coalition for Gay and Lesbian Equality v Minister of Justice* supra note 658 at para 135.

⁷⁹⁹ *Prince v President of the Law Society of the Cape of Good Hope* 2002 (2) SA 794 (CC). See Anashri Pillay 'South Africa' (2003) 1 *International Journal of Constitutional Law* 152 for a detailed discussion of the case.

⁸⁰⁰ *S v Jordan and Others (Sex Workers Education and Advocacy Task Force and Others as Amici Curiae)* supra note 745.

⁸⁰¹ Smith op cit note 633 at 619.

admitted by the Law Society of the Cape of Good Hope because of two prior convictions for the possession of cannabis and his declared intention to continue using cannabis, which he contended was motivated by his Rastafari religion. The court refuted his case, with five of nine judges holding that his freedom to religion had been infringed, but that this was a justifiable limitation in terms of section 36 of the Constitution. Subsequent complaints to the African Commission on Human and Peoples' Rights⁸⁰² and the UN Human Rights Committee under the Second Optional Protocol to the ICCPR⁸⁰³ were unsuccessful.

The decision was mainly based on the interpretation of the right to freedom of religion,⁸⁰⁴ and it is noteworthy that the dissenting minority stated that the Constitution recognises the cultural, social, religious and linguistic diversity of South African society and characterises it as the 'hallmark of a free and open society'.⁸⁰⁵ Of particular interest from the substantive equality point of view is the dissent by Sachs J, who, like the minority judgment penned by Ngcobo J, argued from the perspective of the doctrine of 'reasonable accommodation' that reasonable space should have been given 'to what is unusual, bizarre or even threatening'.⁸⁰⁶ This reasoning argues in favour of accommodating difference, which is the foundational tenet of the transformative dimension of substantive equality. The minority judgment regarded the provisions of the Drugs and Drugs Trafficking Act and the Medicines and Related Substances Control Act⁸⁰⁷ as inconsistent with the Constitution but would have afforded the legislature twelve months to amend the impugned provisions. However, the majority decision of the court

⁸⁰² *Prince v South Africa* (2004) AHRLR 105 (ACHPR 2004); Communication 255/2002.

⁸⁰³ *Prince v South Africa* (2005) AHRLR 40 (HRC 2007); Communication 1474/2006.

⁸⁰⁴ Section 31 of the Constitution of the Republic of South Africa.

⁸⁰⁵ *Prince v President of the Law Society of the Cape of Good Hope* supra note 799 at para 49.

⁸⁰⁶ Ibid at para 172, referring to *Christian Education South Africa v Minister of Education* 2000 (4) SA 757 (CC).

⁸⁰⁷ Drugs and Drugs Trafficking Act and the Medicines and Related Substances Control Act 140 of 1992.

missed an opportunity to affirm diversity, which should logically flow from the notion of considering it as the ‘hallmark of diversity’.

Meanwhile, the court effectuated the value of celebrating diversity in the landmark *Fourie*⁸⁰⁸ decision, which established that the ‘exclusion of same-sex couples from enjoying the status and entitlements coupled with the responsibilities that are accorded to heterosexual couples by the common law and the Marriage Act’⁸⁰⁹ are unconstitutional and ‘invalid to the extent that it does not permit same-sex couples to enjoy the status, entitlements coupled with responsibilities it accords to heterosexual couples’.⁸¹⁰ The case combined two constitutional complaints. One involved two women who wished to marry, whereas the other case was brought by the Lesbian and Gay Equality Project as public interest litigation which challenged the provisions limiting marriage to heterosexual relationships.⁸¹¹

The core issue identified by Sachs J, who wrote the majority decision, was whether the prohibition on same-sex marriage constituted unfair discrimination. Noting that the right to

⁸⁰⁸ *Minister of Home Affairs and Another v Fourie and Another, with Doctors For Life International (first amicus curiae), John Jackson Smyth (second amicus curiae) and Marriage Alliance of South Africa (third amicus curiae) and Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs* 2006 (1) SA 524 (CC). See Beth Goldblatt ‘Case note: Same-sex marriage in South Africa – the Constitutional Court’s judgment’ (2006) 14 *Feminist Legal Studies* 261; PJ Visser ‘*Minister of Home Affairs v Fourie and Bonthuys* Case CCT 60/2004 (CC); *Lesbian and Gay Equality Project v Minister of Home Affairs* Case CCT 10/2005 (CC)’ (2006) 39 *De Jure* 191.

⁸⁰⁹ *Minister of Home Affairs and Another v Fourie and Another, with Doctors For Life International (first amicus curiae), John Jackson Smyth (second amicus curiae) and Marriage Alliance of South Africa (third amicus curiae) and Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs* supra note 808 at para 91.

⁸¹⁰ *Ibid* at para 162. The majority judgment suspended the declaration of invalidity for 12 months. In a dissenting judgment Justice O’Regan held that an order should have been made which would have given immediate effect to same-sex marriages.

⁸¹¹ Section 30(1) of the Marriage Act required marriage officers to ask couples intending to marry: ‘Do you, A.B., declare that as far as you know there is no lawful impediment to your proposed marriage with C.D. here present, and that you call all here present to witness that you take C.D. as your lawful wife (or husband)?’ It stipulated that ‘thereupon the parties shall give each other the right hand and the marriage officer concerned shall declare the marriage solemnized in the following words: ‘I declare that A.B. and C.D. here present have been lawfully married’. This was construed to exclude same-sex couples from marriage (*Minister of Home Affairs and Another v Fourie and Another, with Doctors For Life International (first amicus curiae), John Jackson Smyth (second amicus curiae) and Marriage Alliance of South Africa (third amicus curiae) and Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs* supra note 808 at para 3).

marry is not expressly established in the Constitution,⁸¹² the legal argument was construed from the recognition dimension of substantive equality, emphasising that the impugned laws have been ‘drawing and reinforcing discriminatory social practices’ and ‘failed to secure for same-sex couples the dignity, status, benefits and responsibilities that it accords to heterosexual couples’.⁸¹³ Thus, they had been ‘denied equal protection under the law and subjected to unfair discrimination’.⁸¹⁴

Significantly, the decision also emphasised the transformative dimension of substantive equality, observing that ‘the Constitution thus acknowledges the variability of human beings (genetic and socio-cultural), affirms the right to be different, and celebrates the diversity of the nation’.⁸¹⁵ The court affirmed the societal diversity in that it emphasised that ‘the world in which they (the same-sex couple desirous of marriage) live and in which the Constitution functions, has evolved from repudiating expressions of their desire to accepting the reality of their presence, and the integrity, in its own terms, of their intimate life.’⁸¹⁶

The *Pillay*⁸¹⁷ case is another shining example of the court giving effect to the transformative dimension of substantive equality, and expressly referring to the constitutional imperative to celebrate diversity.⁸¹⁸ It concerned the prohibition of the religiously motivated wearing of a small nose stud by a learner at school, even though the religious practice was

⁸¹² *Minister of Home Affairs and Another v Fourie and Another, with Doctors For Life International (first amicus curiae), John Jackson Smyth (second amicus curiae) and Marriage Alliance of South Africa (third amicus curiae) and Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs* supra note 808 at para 47.

⁸¹³ Ibid at para 78.

⁸¹⁴ Ibid at para 79. The laws were found to infringe sections 9(1) and 9(3) of the Constitution (ibid at para 79).

⁸¹⁵ *Minister of Home Affairs and Another v Fourie and Another, with Doctors For Life International (first amicus curiae), John Jackson Smyth (second amicus curiae) and Marriage Alliance of South Africa (third amicus curiae) and Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs* supra note 808 at para 60.

⁸¹⁶ Ibid at para 78.

⁸¹⁷ *MEC for Education: Kwazulu-Natal and Others v Pillay* 2008 (1) SA 474 (CC).

⁸¹⁸ See, for example, Lourens du Plessis ‘Religious freedom and equality as celebration of difference: a significant development in recent South African constitutional case-law’ (2009) 12 *Potchefstroom Electronic Law Journal*.

voluntary.⁸¹⁹ The court considered this to be an instance of unfair indirect discrimination based on religion and culture. In reaching this conclusion, the court considered the impact of the restriction on the learner's other rights, such as freedom of expression, when determining whether the discrimination was unfair.⁸²⁰ The transformative dimension of substantive equality was clearly explained by Langa J:

The protection of voluntary as well as obligatory practices also conforms to the Constitution's commitment to affirming diversity. It is a commitment that is totally in accord with this nation's decisive break from its history of intolerance and exclusion. Differentiating between mandatory and voluntary practices does not celebrate or affirm diversity, it simply permits it. That falls short of our constitutional project which not only affirms diversity, but promotes and celebrates it. We cannot celebrate diversity by permitting it only when no other option remains.⁸²¹

Overall, the South African Constitutional Court has succeeded in carving out the central tenets of the transformative dimension of substantive equality in its jurisprudence, but failed to consistently give effect to it.

VI. Discussion

The above analysis has demonstrated the presence of all four dimensions of equality in the jurisprudence of the Constitutional Court but has also highlighted their interdependence, intertwinedness and interrelationship. As Fredman observes:

The four-dimensional approach aims at providing an analytic framework to illuminate better the multi-faceted nature of inequality and to assist in determining whether actions, practices or institutions impede or further the right to equality. It is deliberately framed in terms of dimensions, to permit us to focus on their interaction and synergies, rather than asserting a pre-established lexical priority. In this way, we are able to understand the manner in which different dimensions might be used to buttress one another. Where there are conflicts, or one cuts across another, the tension might be resolved by referring to the framework as a whole, the aim being, not so much to insist that one has priority, but to create a synthesis which takes account of all the dimensions.⁸²²

⁸¹⁹ *Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs* supra note 696.

⁸²⁰ Ibid at 94.

⁸²¹ Ibid at 65.

⁸²² Fredman op cit note 434 at 713.

The jurisprudence of the court has given effect to all four dimensions of substantive equality, although the preponderance of judicial engagement is situated within the recognition and distributive dimensions of substantive equality. One striking feature of the equality jurisprudence of the South African Constitutional Court is that it connects the analysis of equality directly to the foundational values of the South African Constitution, which in turn include equality.

VII. Conclusion

This analysis of the equality jurisprudence of the South African Constitutional Court determined that the four dimensions of substantive equality proposed by Fredman are a useful aid to understanding the equality jurisprudence of the South African Constitutional Court. The analysis, however, also demonstrates that the four dimensions alone do not suffice to fully canvass equality, but that recourse to foundational values is required to give meaning to substantive equality. The diversity of factual situations in which the South African Constitutional Court engaged with equality resonates with the diversity and complexity of equality challenges in the higher education partnerships which were observed in the two empirical studies. The result of the analysis indicates that the four-dimensional conception may indeed be suitable to form the basis for the concept of equality in higher education partnerships.

CHAPTER SIX: DEVELOPING A FOUR-DIMENSIONAL UNDERSTANDING OF SUBSTANTIVE EQUALITY FOR THE INTERNATIONAL HIGHER EDUCATION PARTNERSHIP CONTEXT

I. Introduction

This chapter formulates a possible theoretical framework for equality in international higher education partnerships. At the outset, it is necessary to clarify whether equality should at all be regarded as a foundational principle for higher education partnerships. After the discussion of this preliminary question, the chapter will proceed to develop an appropriate theoretical framework for equal partnerships. The proposed understanding is based on Fredman's four-dimensional understanding of substantive equality. The conceptual approach is adapted to the higher education partnerships context and structured to appreciate the diversity of higher education institutions. A seminal aspect of the proposed model is anchoring the four-dimensional understanding of equality in higher education partnerships upon foundational partnership values. This value foundation will assist in overcoming challenges identified with substantive equality in literature, which question 'on what basis should one differentiate' and 'how far should the difference be accommodated'.⁸²³ Specific attention will be afforded to the discussion of how equality challenges encountered in partnerships can be overcome in practice, and how a novel conceptual framework for equality can assist in navigating the challenges encountered between partners.

Central to the development of a conceptual understanding of the definition of equality in higher education partnerships is a deep understanding of the meaning ascribed to the concept by stakeholders in partnerships. For any definition to be acceptable, it should be anchored upon the understanding of the concept by stakeholders in active collaborations. In the absence of a

⁸²³ Apostolopoulou op cit note 439 at 8.

shared conceptual understanding of equality in the higher education sector, it is crucial to incorporate ideas and concepts emanating from contemporary partnership practice in a proposed definition of equality in partnerships. To achieve this, thematic deductive analysis of all qualitative data collected for this thesis will be used to infuse the prevailing thinking of stakeholders in the sector in the conceptual work. In addition, quantitative data from the survey, the insight derived from the literature review, and the analysis of the substantive equality jurisprudence of the South African Constitutional Court will be incorporated. Where appropriate, secondary data will also be considered.

II. Equality as a principle underlying higher education partnerships

At the outset, it is crucial to appreciate that there is broad support for, but not unanimous acceptance of, equality as a fundamental principle underlying bilateral international higher education partnerships by stakeholders in higher education. 79,07 per cent of respondents to the survey regarded it as a fundamental principle, and the majority of respondents indicated that the reason for endorsing equality is that they consider it to be a basic principle of fairness (70,77 per cent). The broad acceptance of equality as a principle underlying bilateral international higher education partnerships is reflective of the academic discourse; the literature review revealed that, while there is a substantive body of literature which accepts equality, there are also some dissenting voices.⁸²⁴ The scrutiny of the limited number of Memoranda of Understanding analysed in the course of the study found an express reference to equality in only one document, which referred to the parties as ‘equal partners’;⁸²⁵ this is indicative of higher education institutions being hesitant to infuse equality into their agreed legal frameworks for partnerships. However, the omission of equality from Memoranda of Understanding does not mean that the partnerships which are entrenched in them are less equal, as no correlation

⁸²⁴ See chapter 2 IV(a).

⁸²⁵ See chapter 4 III(e).

between the lack of commitment to equality in founding documents and its absence in partnership practice could be observed.

From the study of the academic literature, it emerged that works which contest the concept generally equate it with sameness,⁸²⁶ which reflects a formal understanding of equality. The analysis of the survey data similarly revealed that most of those who reject equality are not opposed to fairness and equity in partnerships, but are concerned that the acceptance of equality would be tantamount to agreeing with the principle of sameness in partnerships. P17 remarked:

Should each partner have the same share of contribution, resources, students, staff in the joint projects? I do not share this opinion, as an unbalanced partnership might have (comparable or even equal) benefits for both sides as well... One university may provide more staff to joint research, the other can provide only labs ... and both partners might consider this as an equal or rather 'equitable' partnership. It might be very difficult or even impossible to set a completely equal partnership (based on tangible inputs and outputs).

Of those who rejected equality, most expressed a preference for the application of the principle of equity: 81,25 per cent of the 20,83 per cent of survey respondents who did not agree with equality as a fundamental principle underlying partnerships did not do so because they 'would rather want to apply the principle of equity than equality'. The SIO of PU contended: 'Equality is not the best word. Equity is a better word, especially with long-standing partners' (PUP2). The executive from BU gave one reason for this preference:

There is a beautiful graphic that goes round on the internet, and I use it all the time, there is three kids looking at a ballgame, and there is a fence, and there are different heights of the kids, so you give everybody a box to stand on, okay, that's equality, but that hasn't solved the problem. But then you can make a self-correcting one, and the tall boy doesn't get the box any more, but the shortest boy gets the box. Well, that's positive discrimination, but it has an impact on the relationship, well, I get nothing, he gets double. The best thing would be to get rid of the fence, or build a different type of a fence. (BUP1)

⁸²⁶ For example, as discussed in Chapter I IV(a), Koehn & Obamba op cit note 152 prefer 'near symmetry', and equate equality with sameness.

The insight from this parable is that the stakeholder conceives the concept of equality to be categorical, dogmatic and limiting. The person does not perceive it as providing space for radical rethinking, hence he rejects it outright and invokes a different concept altogether, equity. In his view, in the higher education partnership context, equality cannot be defined as a transformative, flexible concept that allows for radical rethinking. It must be noted that some stakeholders who are genuinely interested in achieving transformed power relations in higher education partnerships would prefer not to work with equality as a concept. For example, EUP2 stated that ‘I really have to admit that I am not comfortable with the term equality’, whereas P72 explained that he was of the view that equality should not be regarded as a fundamental principle of international bilateral university partnerships, because ‘I believe that partnerships should be based on ethical principles and transparency’. Many of those stakeholders assume a formal or symmetrical understanding of equality. However, it may be possible to convince them about the benefit of infusing equality if a convincing argument could be made that equality should be understood as substantive equality, requiring the affirmation of weaker partners.

However, the limited number of views which rejected fairness in favour of a model based on the dominance of the ‘stronger’ partner does not mean that such views do not exist. As demonstrated above, narratives of inequality emerge from the survey,⁸²⁷ and participants in the case studies at times shared experiences of equality challenges in their relationships with partner universities outside the case studies. While the data clearly indicates that dominance in partnerships is the exception rather than the norm, it is worthwhile quoting secondary data collected by Bordogna, who conducted two case studies of partnerships between the United Kingdom and China.⁸²⁸ In one of the two scrutinised higher education collaborations, she

⁸²⁷ Chapter 3 IV(b).

⁸²⁸ Claudia M Bordogna ‘The effects of boundary spanning on the development of social capital between faculty members operating transnational higher education partnerships’ (2019) 44 *Studies in Higher Education* 217–229.

reports on a lack of trust and respect, which manifests itself in one of her respondents from the United Kingdom stating:

[E]very time I've taken the iron fist away, if you take your eye off the ball, for a week, two weeks, something will happen ... it sometimes feels a little bit like looking after a nursery.⁸²⁹

While such paternalistic attitudes are, according to the data collected for this thesis, the exception rather than the norm (no respondent made such a stark statement or even a similar one), there were some statements made by respondents which indicated that they are the controlling partner in an unequal collaboration, despite agreeing with equality as a foundational principle::

[W]e have ... partnerships that are joint degrees that primarily benefit us (the students study two years at their home university and then enrol at my university the following two years). This benefits the students, but the main benefit is to my university. (P73)

The researcher acknowledges that as a result of social desirability bias⁸³⁰ and individuals or institutions that have such views probably being less inclined to participate in the research, there is a possibility that such sentiments are more widespread than would appear from the survey and the perspectives of stakeholders in the partnerships evaluated in the case studies.

The research also revealed that some stakeholders in the internationalisation process are critical of any conceptual framework relating to equality which would entail 'ticking boxes' (EUP3). Arguing from a critical internationalisation framework, the said respondent stressed the importance of equality but rejected an approach which would imply that 'if I do this and this and this, check boxes, then I will create an equal partnership'. Instead, this administrator

⁸²⁹ Ibid at 223.

⁸³⁰ See Ivar Krumpal 'Determinants of social desirability bias in sensitive surveys: A literature review' (2013) 47 *Quality & Quantity* 2025–2047 for a discussion of social desirability bias.

emphasised the importance of equity and mutual sharing to achieve a balance in partnerships (EUP3).

The empirical data demonstrates that there is a minimal conceptual understanding of equality in the higher education sector; it is presently an elusive concept. One of the most notable findings of the survey is that the only question to which no response was received from any participant in the survey was the one relating to their ‘personal understanding of equality in international bilateral university partnerships’.⁸³¹ Also, from the case studies, it appears that many interviewees do not have a clear view of what is meant by equality. This is reflected in the recurring question posed to the researcher by interviewees, asking what would constitute equality. For example, when asked whether equality should be a fundamental principle relating to partnerships, the partnership manager of EU responded: ‘Can I just clarify what you mean by equality?’ (EUP2). Similarly, the executive interviewed at BU responded: ‘What do you mean by equality?’ (BUP1). Nevertheless, few respondents rejected equality outright as a principle; rather, stakeholders expressed scepticism at times. For example, the SIO at WU indicated, before sharing his views on equality, that ‘equality is not the only criterion for us, but that the unequal can also be very attractive to us’ (WUP2).

A variety of interpretations of equality in higher education partnerships in divergent contexts became apparent in the case studies and in the survey responses. Conceptions of partnerships not only varied between survey participants and the universities where the fieldwork was conducted, but also within universities.⁸³² While there was broad support for the notion of considering equality as a fundamental principle relating to international higher education partnerships, there was no shared understanding of the concept’s principal elements.

⁸³¹ Question 12.

⁸³² See chapters 3 and 4 for their analysis.

From the research conducted it is clear that equality is widely accepted, but little understood. This resonates with the literature, which refers to equality without defining it.⁸³³ Equality is a complex concept, which is difficult to define irrespective of context. It is widely accepted, but not clearly defined. The agreement with equality as a concept may suggest equality is referred to mainly because it is regarded as politically correct to do so. No simplistic, one-size-fits-all response to the challenge of equality would be appropriate; it is a flexible concept which can incorporate the multitude of facets of equality. As stated by P12, ‘equality in partnerships ... should respond to the specificities of each partnership, context and project’.

III. Formal or substantive equality

Before elaborating on a detailed concept of equality in higher education partnerships, it is necessary to clarify which basic conception of equality should be applied to this context. In this section, the suitability of formal and substantive conceptions of equality is evaluated.

(a) Formal equality

As discussed at length in chapter 1, formal equality refers to an understanding of equality based on the notion that what is alike should be treated alike.⁸³⁴ While there is a general perception that there needs to be a general ‘balance’ in partnerships, there is also the prevailing view that sameness is not required for partnerships to be successful. University stakeholders who conceptually associate equality with sameness are highly sceptical of the concept, both with regard to partnership contributions and benefits. No interviewee endorsed a strictly arithmetical approach, and frequently the sentiment encountered was that expressed by a participant who stated: ‘I think striving for pure equality is almost wrong. Saying: you sent us two staff last

⁸³³ See chapter 2.

⁸³⁴ See chapter 2 IV(a) above.

year, so we are sending you two staff this year' (BUP5). Another stakeholder remarked in the context of partnership contributions that–

certainly it is quite clear that partners with twice or three times the average salary must receive more. Certainly, the amount of the budget has to be connected with the costs in some sense. So, this is much more important than just formal equality in terms of the amount of money. (EUP1)

Relationships based on formal equality are in the opinion of stakeholders often transactional and based on 'making money', which results in some of the universities avoiding them. P36 explained that 'most of the international partnerships are transactional, that is, one university is trying to earn additional monies while the other is trying [to] recruit more students through partnerships with better established (usually Western) universities'. BUP's executive explained: 'For us, it is not about making money. If we go into a relationship where money becomes a driving factor, that makes us look twice at that relationship' (BUP1).

Care must be taken not to generalise the apparent aversion to formal equality in higher education partnerships. As alluded to above, finding universities willing to participate in the case studies and individuals responsible for partnership management to participate in the survey was very challenging, and it could well be that those where formal conceptions of equality in higher education partnerships prevail were not willing to participate in the study. This is indicated by the frequency with which some of the stakeholders interviewed referred to encountering formal conceptions of equality at partner universities, particularly when engaging with North American universities. For example, the member of the executive at BU stated that 'American universities, ... they are purely looking at the ratio: If you send one student, they want one student ... and so on' and indicated that this attitude is in his view not conducive to developing partnerships, and would result in partnerships which do not last very long (BUP1).

The disagreement with sameness and formal conceptions of equality which was apparent in the empirical research is caused by the inability of such a concept to provide guidance on

how to achieve equality; the pure application of the concept that likes should be treated alike will not further fairness and equity in higher education partnerships. Many research participants who accept equality wholeheartedly as a fundamental principle nevertheless rejected a formal conception based on sameness: ‘I don’t think equality means there must be equal contributions or that benefits must be equal’ (P53). Thus, it is necessary to explore an alternative understanding, which gives effect to the substantive content of equality.

(b) Substantive equality

Flexible and contextual approaches to the concept of equality are widely endorsed by stakeholders. SBUP2 noted:

Yes. Equal partnership is for us a non-negotiable. As we became more experienced, we started to become more flexible. That means if university x wants to send, and the agreement says 2 students per semester, and they normally send UG students, we negotiated now that we could send 2 PG students. The cost for PG students is for us less, they don’t have to do courses, they do research work there and it has a further benefit, that the professors need to link up with each other.

However, from the empirical research conducted, it is clear that substantive equality is not a concept which is commonly referred to in higher education international partnership practice. To recap, substantive equality refers to a broader, contextual understanding of equality which appreciates the diversity of societies and the world.⁸³⁵ The literature review revealed that its application in the higher education context has to date been extremely limited. Not a single participant in the survey or the case studies referred to it in express words, but many referred to constitutive elements of the concept.

⁸³⁵ See chapter 2.

Amongst participants in the research, a contextual understanding of equality prevailed, with the focus differing between stakeholders. For example, the SIO of BU explained:

I truly believe that the context in which we operate means that the kind of activity and the level of activity that you undertake, the intensity of the two partner institutions is different. And that, to me, that is quite logical and perfectly acceptable. (BUP2)

Most participants in the case studies expected partners to invest effort in the collaboration. Mutuality, respect and appreciation for the priorities of other partners are central to the predominant understanding of equality. However, none of the respondents insisted on the sameness of contributions or benefits. Instead, they stated that context is essential for the determination of both partnership contributions and benefits. For example, the SIO of PU advanced the concept of an ‘asymmetrical balance’ as his preferred approach to equality. He suggested that this means that ‘you may get a bit more of one thing, and give more of another’ instead of ‘looking at the quantitative element, and looking at mathematical equivalence’. In essence, this would involve a ‘reflection and finding that balance in a creative way rather than in a numerical way’ (PUP3).

It appears that unless a flexible, adaptable understanding of equality in higher education partnerships can be conceptualised and agreed upon by international education stakeholders, it will not be possible to entrench equality as a generally accepted principle relating to higher education partnerships. Such a theoretical framework may be based on the four-dimensional conception of substantive equality proposed by Fredman, which has already been analysed in chapters 2 and 5. The advantage of recourse to substantive equality is that it allows for the dismantling of patterns of systematic disadvantage,⁸³⁶ which are an unfortunate feature of contemporary higher education partnerships.

⁸³⁶ See chapter 5 I, and specifically the discussion of *Volks NO v Robinson and Others* 2005 (5) BCLR 446 (CC) supra note 766.

As will be demonstrated below, although no respondent referred in express words to the concept, many described aspects of substantive equality when asked what constitutes equality in higher education partnerships.

Redistributive dimension

The redistributive dimension of substantive equality considers remedying the detriment arising from status.⁸³⁷ Transferred to the higher education partnership context, the redistributive dimension of substantive equality directs that partnership benefits and contributions should redress the disadvantage of universities arising from factors that include their history, legacy, context, student body and the communities they serve. It should be understood as a structural principle which results in the fair distribution of partnership contributions and benefits. Many respondents indicate the centrality of funding availability to equality in partnerships:

Funding is a huge part of this issue. Universities in developed countries have funds allocated for mobility, whereas this is most of the time missing for partner universities in the Global South. Sometimes there are funding opportunities from the EU but unfortunately these do not always take into consideration the actual costs that are incurred in developing countries and tend to minimise and generalise different contexts and situations. Thus ... students and staff from the North have it easier to be mobile compared to those in the South. (P40)

On the other hand, there are strong sentiments that ‘equality or reciprocity does not mean complete (50:50) financial balance’ (P8). This is echoed by the survey, in which only 36,36 per cent supported ‘equal contributions’ as a prerequisite for equality in a higher education partnership. BUP2 stated that ‘as long as there is collaboration, it doesn’t have to be the same input in terms of monetary value’. However, there was a sentiment that ‘contributions should depend on being equally meaningful’ (PUP1). In this context, it was noted that ‘institutions can contribute non-monetarily, *vis-a-vis* internal resources such as transportation, office space,

⁸³⁷ See chapter 2 IV(d) and chapter 5 II.

event space, laboratory use, faculty expertise, student engagement, in order to make the relationship equitable' (P6). However, there was also a strong sentiment that 'that there should be a contribution from the partners' (CUP1). The value of diverse contributions is acknowledged: 'equality ... means ... recognising that different partners have different things to contribute to benefit the partnership' (P88).

Research participants, especially in South Africa and the Global South, argue vociferously in favour of redistributive equality. The SIO of PU stated that 'not numerical imbalance is the problem, but numerical imbalance may at times be prerequisite to achieving equality' (PUP2). A member of the same university's executive noted that 'when we talk equality with regard to finance, you create a kind of equitable relationship, where you are very clear I am giving as much as I am getting' and highlighted the fact that 'when we are talking equality, invariably we are talking about social justice' (PUP1).

A suitable way to accommodate flexibility with regard to partnership contributions in the notion of equality would be to follow the parameters of the University of Venda's internationalisation policy, which, as discussed above, states that 'every partner to a relationship should make contributions which are equally meaningful taking the context of the partner into consideration'.⁸³⁸ In the survey, 71,93 per cent of respondents endorsed this wording.

Sharing of benefits is viewed as a central aspect of equality in partnerships. It transpired from the survey that 76,36 per cent of respondents afforded high priority to equality of partnership benefits. Benefits should be equally meaningful, but depend on what the respective partners' priorities are. Most participants noted that 'mutually beneficial' should not be understood to mean that both partners should reap the same benefit. Rather, it is necessary that both partners 'achieve something important to them' (BUP6). The respondent stated that

⁸³⁸ See chapter 2 IV(f), with reference to Hagenmeier op cit note 9 at 45.

‘perhaps a partner would rather do something with research, seminars, with Collaborative Online International Learning (COIL), and someone else would prefer to promote mobility, also in terms of quantity is not always the same for me, but it is mutually beneficial, the partnership is very positive and satisfying for both partners’ (BUP6).

‘It doesn’t have to be the same, but you should have achieved objectives which fulfil your respective agendas in your universities’ (PUP6). There is a robust sense amongst respondents that the essence of partnerships is that partners are able to meet their own objectives, which may be different for each partner to a collaboration.

I would make a distinction between ‘equal’ benefits and ‘right’ benefits. In my view, these do not have to be equal because each university has its own goals and realities, which often differ from institution to institution and from country to country. What I find is important is that both universities benefit from the partnership in ways that meet their own objectives. (P4)

Equality in achieving their own respective priorities is considered a central tenet of the concept. The executive of EU stated that ‘basically the major definition, or the main definition of equality is that both parties should have the same chance to fulfil their priorities’ (EUP1).

Participants from countries with lower salary levels acknowledge that it is appropriate to reflect differentials in income levels in a budget rather than to insist on the principle of ‘equal compensation for equal pay’. Commenting on the budget of an EU-funded project which awards higher daily rates for work done in higher-income countries, the executive of EU said:

I am happy with this. It is quite clear that partners with twice or three times the average salary must receive more. Certainly, the amount of the budget has to be connected with the costs in some sense. So, this is much more important than just formal equality in terms of the amount of money. (EUP1)

This will be reflected in the proposed conceptualisation.

As a structural principle, the redistributive dimension should also inform the support for economically disadvantaged partners. This is already practised by universities located in well-

resourced contexts. For example, an executive of BU explained that his institution noted in a partnership with a Latin American university a disequilibrium in that only BU students participated in the agreed student exchange programme. He said that his institution felt that this ‘was unfair, that we were sending on a fee-waiving basis, and they seemed not to be benefiting from this’ (BUP1). Motivated by ethical and moral considerations, BU looked for solutions, including offering grants for students from the South American institution to come to BU. In addition, participation in summer schools by students from partner universities in consideration for accepting exchange students from BU is offered where students are unable to come for a semester (BUP1).

In the same vein, universities from less affluent or developing contexts are supporting their own students to empower them to participate in partnership activities. For example, the EU has scholarship programmes in place to supplement EU funding. In the South African context, PU reported that internal funding is used to supplement EU funding. The university pays for medical aid and the visa costs (which includes national long-distance travel) to supplement external funding (PUP5).

Another aspect of the distributive dimension of substantive equality in partnerships is that equality in the partnership’s activities includes providing opportunities to members of designated groups who find it difficult to participate in partnership programmes. As discussed in detail in chapter 5, this aspect of substantive equality requires that preference be afforded to members of groups who have suffered disadvantage. A former executive of CU reported on the experience of promoting race equality in the partnership with MRU, in which a joint degree programme is offered. CUP1 elaborated upon the inclusion of a student of colour with limited proficiency in the programme language, which—

was problematic that she actually couldn't speak enough German to be successful in the course. There you can see the problem that is connected with the fact that the students are selected according to political, i.e. non-equality, racial criteria, but not according to

professional criteria. That is the way it is, and will remain so, that the problem is there and has to be solved and of course we are in the process of solving this problem.

His account concluded by recalling that ultimately the intervention was successful. While acknowledging the difficulties and challenges, this stakeholder and other stakeholders embrace the notion that substantively equal treatment may at times involve preferring disadvantaged groups.

Redress for inequalities should be sought within partnerships, but it is equally important that conditions at the macro- and meso-level are changed to allow for equality in partnerships. This, of course, involves action and awareness by stakeholders external to partnerships, particularly by funding agencies and philanthropic donors. In this regard, commitment to equality needs to extend beyond universities. Stakeholders should develop sensitivity to accommodate students in funded programmes who have no means to pre-finance the expenses themselves, and a global effort is required to allocate resources which allow for the structuring of equal higher education collaborations.

Recognition dimension

The essence of the recognition dimension is the promotion of dignity. Respect for partners emerged as a central theme from both the survey and case studies, and two sub-themes can be distinguished: first, respect for the ‘sovereign’ equality of universities, and second, the protection and promotion of the dignity and self-worth of participants in partnership activities.

At the start of discussing whether ‘sovereign equality’ falls within the ambit of the recognition dimension of equality, we must clarify whether universities are bearers of dignity, a concept which usually applies to persons. Generally, legal systems, including the South

African legal system, focus on human dignity.⁸³⁹ However, entities such as states are at times ascribed dignity. For example, the US Supreme Court has on several occasions referred to the dignity and respect afforded to states.⁸⁴⁰ In *Federal Maritime Commission v South Carolina State*⁸⁴¹ the US Supreme Court held in a majority decision that ‘the preeminent purpose of state sovereign immunity is to accord States the dignity that is consistent with their status as sovereign entities.’⁸⁴²

It is not necessary to answer this question conclusively because dignity is afforded to universities by way of analogy. To participants in the research, recognising the intrinsic worth of partner universities is a central concern, because ‘equality means that both institutions have the same worth’ (P16). A participant from a comprehensive South African University, SBU, explained that conversations about equality with WU means that ‘we feel that we are on the same level as the other university so that we can have a partnership’ (SBUP3). BUP5 remarked that ‘in terms of equality between institutions, we don’t sort of have a ranking in a sense this is the best university’, whereas P53 stressed that ‘partners must feel like they are benefiting from the relationship and feel that they are respected and valued by their partner’. Respect for partner institutions is important to many respondents, which manifested itself in statements such as ‘[p]artnerships are generally based on mutual benefit and mutual respect’ (P78), ‘equality is largely a perception of mutual respect’ (P23), and ‘partners must treat each other with mutual respect’ (P53).

⁸³⁹ See, for example, Rinie Steinmann ‘The core meaning of human dignity’ (2016) 19 *Potchefstroom Electronic Law Review* 1–32.

⁸⁴⁰ See, for example, Peter J Smith ‘States as nations: Dignity in cross-doctrinal perspective’ (2003) 89 *Virginia Law Review* 1–107.

⁸⁴¹ *Federal Maritime Commission v South Carolina State* 10.535 US 743 (2002). See Scott Dodson ‘Dignity: The new frontier of state sovereignty’ (2003) 56 *Oklahoma Law Review* 777.

⁸⁴² *Ibid* at para A.

The unfortunate reality in contemporary higher education partnerships is that arrogance and paternalistic power relations do occur. The SIO of BU, which does not feature highly in international university rankings, explained that ‘sometimes you feel that in the initial stages of exploring potential partnerships, that some universities may look down on you, probably because you are not in a particular ranking’ (BUP2). The same stakeholder also stated that similar dynamics are frequently encountered in the relationship with traditional research universities, specifically because universities of applied sciences focus less on research publications (BUP2). A number of respondents reported equality challenges in their relationship with Anglo-Saxon universities. For example, a respondent from PU explained that ‘American universities struggle with the concept [of equality]. They want to do it their way and often have a patriarchal approach to collaboration with us’ (PUP2). The recognition dimension of substantive equality has the potential to allow universities to engage and to overcome such attitudes.

The second aspect of the recognition dimension in the context of higher education partnerships is that all individuals engaging in partnership activities must be treated with respect and dignity, which is based on the humanity which attaches to every person. As discussed in chapter 5, the judicial interpretation of substantive equality by the South African Constitutional Court has elaborated upon the interdependence between the right to dignity and equality. The scope of application in the partnership context is wide, and ranges from the selection and treatment of students and academics participating in physical or virtual exchange programmes, to interactions in partnership governance structures and engagements under the umbrella of partnerships with local communities.

Several participants noted that any form of discrimination is considered taboo in the partnership context. The partnership manager of BUP remarked: ‘We don’t discriminate, you know, on race, gender, sexual orientation ... as far as you want to go. I’m obviously ... not

willing to work with partners that might do that' (BUP5). Some of the scrutinised Memoranda of Understanding expressly refer to the partners taking a stance in this regard: 'both institutions subscribe to the policy of equal opportunity and do not discriminate on the basis of race, gender, age, ethnicity, religious belief, national origin or physical disability' is a clause embedded in the Memorandum of Understanding between BU and EU. There were no accounts of experiences of direct discrimination in the partnership context, and a strong sense prevailed that this would not be tolerated or reconcilable with the principle of equality.

Participation dimension

The participation dimension of substantive equality as a structural principle for partnerships relates to equal participation and influence in decision-making processes, as well as transparent and open communication. Equal participation in partnership decision-making processes is acknowledged as a fundamental principle by participants in the empirical research. A prerequisite for equal participation in partnership processes is open, transparent and effective communication. P6 remarked that 'communication is fundamental'. There has to be an explicit understanding on both sides. This takes administrators who 'are transparent and have the interest of both institutions at hand' (P6).

The essence of this dimension of substantive equality is that all partners should be afforded equal weight in decision-making processes. Involvement in the determination of partnership priorities starts before the inception of the collaboration: 'partners should be equally involved in designing the agreement, its aims, objectives and outcomes' (P52) and should avoid 'the power struggle ... often present ... when the universities that sign the agreement are not equally prestigious'. This principle should transcend all partnership processes: 'in terms of equality in partnerships, it's crucial that both partners have equal influence on decisions and that both partners are equally comfortable with the inputs and outputs assigned to each' (P62). The

reality, however, is often that ‘normally a big university has more to say in the cooperation according to my experiences, especially in European cooperation projects’ (P29).

However, there is reflexivity by stakeholders at highly ranked and well-resourced universities in the Global North regarding the need for equal participation in partnership decision-making processes, and such attitudes were not displayed by any stakeholders interviewed for the case studies. On the contrary, a high level of self-reflection and awareness about avoiding such power dynamics could be observed at the ‘stronger’ partner universities.

A senior academic from CU remarked:

Something that is difficult to articulate, given the issue of equality, underlying all of this, I’m always a little worried, there is still something like a hegemonic agenda in the background, it is not obvious, it’s nothing that you could ever get somewhere, but I don’t know whether we have overcome all the stereotypes of the past. I’m a little worried about [it] sometime[s], although I could not see any particular example, but in a sense of a more self-critical, hermeneutical approach, are we already beyond and over everything or there [is] still something lurking. (CUP4)

The participation dimension of substantive equality can provide normative orientation to overcome postcolonial or hegemonic power structures, which are sometimes still evident in partnerships.

Transformative dimension

Diversity of size, shape and character of universities and the different contexts in which they are located should be affirmed through the transformative dimension of substantive equality. The transformative dimension affirms the value of having different types of universities with different institutional characteristics, and underscores the opportunity to learn from other universities, even if they are considered ‘weaker’. ‘There is much we can learn from our partners, irrespective of where they are ranked or in which region of the world they are based’ (P15).

A general sense prevails that diversity in partnerships is not an obstacle to equality; rather, it is perceived as an asset. Difference and complementarity enrich partnerships. A member of BUP's executive explained that the circumstances determine whether his institution looks for similarity or complementarity when looking for partners (BUP1). The concept of complementarity is central, which in the context of partnerships means that universities partner with higher education institutions which have strengths in different areas. The case studies revealed that the partnerships between universities of different character and strength can be equal. For example, BU and EU achieve equality based on the different strengths of the two partners. The strength in internationalisation may be one of the core factors making BU an attractive partner for EU, whereas the strength in research may make EU an attractive partner for BU.⁸⁴³ The partnership coordinator from BU commented: 'I think that there is a balance, a real equality ... we complement each other, we learn from each other' (BUP5).

Several participants indicated that they expect their partnerships to assist in strategically transforming their universities to accommodate difference: 'we also try to ... look at partnerships that will help us in our strategic goals as an institution, and one of them is global citizenship. What that consequently means is that we deal with institutions that will not be potentially as rich as we are' (BUP1). The collaboration between SU and CU is another example of how international partnerships have the potential to assist in navigating transition processes:

The [other] opportunity was also to share history of the two institutions, with CU transitioning through the change [from socialism to democracy] in that country, and MRU, with its own baggage of being associated very closely with the previous government in SA, and also needing to transition. That also gave a good, a shared history. There were many discussions around that ... it was always part of the discourse in the two institutions – the shared history and the way we tried to make a change. (MRUP2)

⁸⁴³ See chapter 4 I(e).

(c) Value foundation

Entrenching substantive equality in partnerships may be challenging in the absence of a strong value foundation. First, it is important to determine the significance of values in the context of substantive equality in partnerships. Recourse to the South African Constitutional Court's equality jurisprudence is helpful in that it demonstrates the interdependence between the constitutional right to equality and values. In the South African Constitution, equality has a dual function both as a foundational value and as a right. Section 1 provides:

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- (b) Non-racialism and non-sexism.
- (c) ...

The foundational value of equality is referred to *inter alia* in the Bill of Rights and the rules relating to its interpretation. When interpreting the right to equality, the Constitutional Court regularly refers to the founding values of an open and democratic society, human dignity, equality and freedom. As fully examined in the previous chapter, constitutional values inform the interpretation of the right to equality.

To give meaning to the four dimensions of substantive equality proposed as structural principles to determine whether higher education partnerships are equal, recourse to foundational partnership values is proposed. Values can inform and guide the application of substantive equality as a structural principle for higher education partnerships. Participants in the empirical research supported recourse to values for the understanding of partnerships; one respondent explained that partnerships should be 'grounded in trust, mutual respect and good communication' (P53). Jooste eloquently explains the importance of values, based on his ideal of a 'global commons':

Partnerships in higher education internationalisation will only serve as spaces where the collaborators see themselves as equals willing to share, innovate and work towards the common good of those ‘in the commons’ if they agree to a common set of values that will guide them during these activities. Only if values are agreed we will avert the tragedy of the higher education commons and build a ‘triumph of the commons’ in the future.⁸⁴⁴

The insight gained through the literature review, the empirical research and the interpretation of the substantive jurisprudence of the Constitutional Court informed the values which should be considered as foundational for the concept of equality in higher education partnerships. Foundational partnership principles which have been crystallised from the partnership literature are discussed in chapter 2,⁸⁴⁵ and they were referred to by many participants in the empirical research. Below, the foundational partnership values of mutuality and mutual benefit, transparency and accountability, academic freedom, and promotion of education, research and development are used as the basis for defining proposed foundational values for partnerships. Their descriptions in the literature are revisited, and whether they are reflected in the thinking of partnership stakeholders who were respondents to this study’s empirical work is investigated. Where appropriate, reference is made to their judicial interpretation. In addition to the four values that have been extracted from the literature, trust and *ubuntu* are proposed as additional foundational partnership values.

- *Mutuality and mutual benefit*

Mutuality and mutual benefit were crystallised as important foundational principles from the literature review. It is essential that equal partnerships ‘promote mutuality’ (P94). The statement ‘you always try and look how you can make the relationship mutually valuable in each other’s different context’ (BUP1) is a typical manifestation of this thinking. Expanding on this, the

⁸⁴⁴ Jooste op cit note 109 at 15.

⁸⁴⁵ See chapter 2 III(c).

stakeholder stated that ‘we will always try to find partners where we institutionally benefit, but (where the collaboration) will also help the other partner’.

Inextricably interwoven with mutuality is the value of reciprocity, which is generally considered to be an essential element of equality: ‘[s]ome sense of reciprocity must be kept’ (P8). ‘The concept of reciprocity, which we consider as mutual transactional benefits, has been an important factor in our partnership development and success’ said P20. The SIO of BU explained:

Obviously, [the partnership] operates based on reciprocity, so there should be some balance in the effort, in the investment that you do, in looking after the students for example, in accommodating requests for information, or partner visits. (BUP2)

It is proposed that mutuality, mutual benefit and reciprocity should be combined and considered as one foundational value, referring to mutuality only. The concept of mutuality is broad enough to encompass the notions of reciprocity and mutual benefit.

- *Transparency and accountability*

This principle features centrally in the partnership literature. Transparency relates to the availability of information. It reverberated in the empirical research; for example, P20 stated that transparency is fundamental to partnerships. It is a basic condition for effective communication and fair decision-making, which emerged as themes from the qualitative data. Accountability goes further and relates to the notion that partners are taking responsibility for their actions.

- *Trust*

Stakeholders cited trust as foundational to equality. According to P53, the ‘most important quality of [a] good partnership is that it is grounded in trust.’ The SIO of BU explained:

Equality between the partners, that means that there should be a level of trust, that once you have explored whether there is a good match between the institutions, and the programme you would like to exchange the students in, that you trust your partner in selecting the right students, in transferring the credits, so equality for me operates on the basis of trust. (BUP2)

The executive of MRU explained how it becomes easier to resolve equality challenges in trust relationships: ‘It is easier to do it where you have a relationship that is already built on trust’ (MRUP1). Trust, which is also widely referred to in the partnership literature,⁸⁴⁶ is of such fundamental importance to equal partnerships that it is proposed that it should be considered a free-standing value.

- *Equity and fairness*

Equity and fairness, which emerge from the literature as fundamental values for partnerships, should serve as foundational values of equal partnerships.⁸⁴⁷ For example, P8 explained with reference to a partnership in which the person was involved: ‘in sum, the partnership was designed with equity in the forefront’ (P8). In the practical partnership discourse, stakeholders make little distinction between equity and a substantive conception of equality.⁸⁴⁸ It would make sense for equality to serve in a double function, both as a foundational partnership value and as a four-dimensional structural principle, as it does in the South African Constitution. However, in the interest of avoiding confusion, it is proposed that the foundational value should rather be ‘equity and fairness’.

⁸⁴⁶ See, for example, Blagescu & Young ‘Partnerships and accountability’ op cit note 292. Equity is fully discussed in chapter 2 IV(e).

⁸⁴⁷ Refer to chapter 2 I(e). See for example Maringe & De Wit op cit note 7 at 151.

⁸⁴⁸ Refer to chapter 2 I(e) for a discussion of the frequent confusion of the concepts of equality and equity.

- *Academic freedom*

Academic freedom is a widely cherished principle, which is relevant throughout the higher education internationalisation discourse⁸⁴⁹. While not expressly referred to by the participants in the empirical research, this principle is of such seminal importance that it should nevertheless be considered as an important value underlying higher education partnerships.

- *Promotion of education, research and development*

The promotion of education, research and development is the essential *raison d'être* for higher education. Without a connection to this purpose, higher education partnerships would become irrelevant to the sector. Explaining his university's internationalisation and partnership strategy, CUP1 stated: 'Opening of thought in all categories. Internationalisation and visibility of research. International courses ... are important.' This statement reflects the connectedness of the partnership strategy and academic values. Ultimately, the purpose of all partnerships must be connected to this academic purpose.

- *Ubuntu*

This thesis agrees with Jooste's argument that the African value of *ubuntu* should be regarded as a foundational value for partnerships, although it should be integrated with other values. The substantive content of the philosophy of *ubuntu* was encapsulated in the concurring judgment penned by Mokgoro J in *S v Makwanyane*:⁸⁵⁰

Generally, ubuntu translates as humaneness. In its most fundamental sense, it translates as personhood and morality. Metaphorically, it expresses itself in umuntu ngumuntu ngabantu, describing the significance of group solidarity on survival issues so central to the survival of communities. While it envelops the key values of group solidarity, compassion, respect, human dignity, conformity to basic norms and collective unity, in its fundamental sense it denotes humanity and morality. Its spirit emphasises respect for human dignity, marking a shift from confrontation to conciliation.

⁸⁴⁹ Refer to chapter 2 I(e) for a discussion of academic freedom.

⁸⁵⁰ *S v Makwanyane and Another* 1995 (3) SA 391 (CC) at para 307. See also Mokgoro op cit note 373, who engages with the definitional challenges emanating from the concept.

Ubuntu has been endorsed by the South African Constitutional Court as a foundational value of the country's Constitution. In *Beadica*⁸⁵¹ Theron J observed that 'ubuntu, which encompasses these [fairness, reasonableness and justice] is now also recognised as a constitutional value, inspiring our constitutional compact, which in turn informs public policy'.⁸⁵²

The link to the common good inherent in the value of *ubuntu*, together with the unique richness of the concept, indicate that it would be most suitable for strengthening the value foundation of higher education partnerships. Incorporating *ubuntu* in the conceptualisation of equality is also a practical contribution to decolonising internationalisation, in that it infuses non-western philosophy in the understanding of the internationalisation process.⁸⁵³

IV. Strategies to overcome equality challenges

From the survey, the strong desire of the sector for guidelines to clarify the concept of equality in partnerships became apparent.⁸⁵⁴ While this thesis remains true to its original intent to define the concept in divergent contexts, the proposed theoretical framework is suited to being developed further and amplified into equality guidelines for partnerships. It is, however, submitted that this should be embedded in a comprehensive set of partnership guidelines, as envisioned by the Nelson Mandela Bay Declaration on the Future of Internationalisation.⁸⁵⁵

⁸⁵¹ *Beadica 231 CC and Others v Trustees for the Time Being of the Oregon Trust and Others* supra note 515.

⁸⁵² Ibid at para 72. Theron J cited *Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty)* 2012 (1) SA 256 (CC) with approval, which endorsed *ubuntu* and noted that it 'emphasises the communal nature of society and "carries in it the ideas of humaneness, social justice and fairness" and envelopes "the key values of group solidarity, compassion, respect, human dignity, conformity to basic norms and collective unity."' See Thomas W Bennett 'Ubuntu: An African equity' (2011) 14 *Potchefstroom Electronic Law Journal* 30–61 for a comprehensive discussion of the use of *ubuntu* in South African law.

⁸⁵³ See chapter 2 II(c) for a discussion of the decolonisation of internationalisation.

⁸⁵⁴ See chapter 3 IV(b).

⁸⁵⁵ Global Dialogue hosted by the International Education Association of South Africa op cit note 9 at 2.

An important aspect of achieving agency in higher education partnerships is to strengthen the agency of ‘weaker’ partners. In this respect, this thesis agrees with Chasi who elaborates on the role of agency in achieving equality in the context of her case study of North–South Partnerships at the University of the Witwatersrand:

While the future is unknown, change is inevitable and incremental. It is being effected in the way North-South partnerships at Wits are conceptualised and managed, moving away from one-way transactions and contributions to a partnerships paradigm characterised by greater equality and mutuality, based on the Wits’ confidence in its capability of coming to the table as an equal partner. Such agency is linked to thoughts of liberation and justice and of reimagining the future, which are associated with postcolonial thinking.⁸⁵⁶

Agency to participate as equals in all partnership processes may be one of the critical strategies for achieving equality in partnerships. This positive attitude already reflects in SIOs and partnership managers from the Global South; for example, P25, who hails from Africa, explained that ‘I make it my business to make sure that the understanding [of equality] evolves with the partner’.

Innovative approaches to partnerships also assist in achieving equality. For example, MRUP and SBU developed the concept of asymmetrical student exchanges (MRUP2 and SBUP2). Another strategy which appears to be successful is the use of own funds to invite partners to events such as family weeks (SBU) or research seminars (MRU). As demonstrated above,⁸⁵⁷ another critical theme emanating from all the research is the importance of communication and effective governance structures. Both can be strategically used to advance equality in partnerships.

⁸⁵⁶ Chasi op cit note 153.

⁸⁵⁷ See chapter 6 III(b).

V. Conclusion

(a) Concept of equality

Based on the discussion in this chapter,⁸⁵⁸ it is suggested that for a partnership to be considered equal, the following criteria should be met:

- The collaboration has a strong value foundation, based on values including mutuality, transparency and accountability, trust, equity and fairness, academic freedom, promotion of education, research and development and *ubuntu*.
- All partners make contributions which are equally meaningful considering the context of the partner, and all partners are able to achieve their own priorities to an equal extent through the partnership. Appropriate measures are taken to ensure the equal participation of designated groups in partnership activities.
- All partners recognise and affirm their equal worth, as well as the equal worth of all those who participate in partnership activities in all spheres of the collaboration. Inclusive and non-discriminatory participation in partnership activities is assured.
- Open and transparent communication is practised. Partnership decision-making processes afford equal weight to all partners' voices, and ensure that minority views are considered. Partners actively work towards overcoming hegemonic, colonial or paternalistic tendencies in the collaboration.
- The partnership as a whole affirms the diversity of universities and leverages on the transformative power of collaboration with universities of a different character. Partners share and appreciate the diversity of philosophical foundations for

⁸⁵⁸ Ibid.

knowledge generation and sharing, research paradigms, and curricula as an asset for collaboration.

The criteria are indicative of whether a partnership can be considered as equal, but have to be considered holistically and applied flexibly.

(b) Possible strategies to achieve equality

Strategies to achieve equality in higher education partnerships should include embedding the proposed theoretical framework for equality in higher education partnerships in broader partnership guidelines, which should be universally promoted. Furthermore, the agency of ‘weaker’ partners should be strengthened, which requires empowerment and self-assuredness of the partnership’s stakeholders. In addition, innovation and the strategic use of own funds can, together with clear and transparent partnership governance structures, contribute to achieving greater equality in partnerships. It goes without saying that the achievement of equality should be a characteristic of all partnerships, but that partnerships are normally not established with the sole objective of being equal collaborations, but in order to achieve other objectives.

CHAPTER SEVEN: CONCLUSION

I. Introduction

This chapter provides a succinct summary of the study's findings as well as a reflection on the research progress. In addition, it provides relevant recommendations for further research on international higher education partnerships.

II. Findings

The research questions which were posed for this thesis⁸⁵⁹ have been answered through a literature review,⁸⁶⁰ two empirical studies⁸⁶¹ and doctrinal analysis⁸⁶² of the relevant jurisprudence of the South African Constitutional Court.

(a) Present practices and conceptualisations of equality in international higher education partnerships

The literature review first established the background against which this study is undertaken, that is, the internationalisation of higher education.⁸⁶³ Thereafter, it determined a working definition for higher education partnerships.⁸⁶⁴ After an analysis of partnership themes,⁸⁶⁵ the four foundational principles of mutuality and mutual benefit, transparency and accountability, academic freedom, and promotion of education, research and development crystallised as foundational partnership principles,⁸⁶⁶ together with equality and equity. Through the lens of Amey, Eddy and Ozaki's multi-stage partnership model,⁸⁶⁷ partnership processes at the

⁸⁵⁹ See chapter 2 IV(a).

⁸⁶⁰ See chapter 2.

⁸⁶¹ See chapters 3 and 4 respectively.

⁸⁶² See chapter 5.

⁸⁶³ See chapter 2 II.

⁸⁶⁴ See chapter 2 II(a). Following a thorough analysis, the researcher decided to adopt the definition proposed by Maringe & De Wit (op cit note 7) which regards partnerships as 'any formal or informal working together by two or more higher education entities in pursuit of common goals' as a working definition.

⁸⁶⁵ See chapter 2 III(b).

⁸⁶⁶ See chapter 2 III(c).

⁸⁶⁷ Amey, Eddy & Ozaky op cit note 305.

foundational, operational and continued sustainability phase were extrapolated.⁸⁶⁸ No matured definitions of equality in higher education partnerships could be identified, and the evaluation of the literature confirmed inequalities and the need to conduct a thorough study of equality in higher education partnerships.⁸⁶⁹

Widespread endorsement of equality as a fundamental principle relating to higher education partnerships is juxtaposed with a surprising lack of understanding of the concept by SIOs and partnership managers. This was perhaps the most notable finding of the survey which was conducted.⁸⁷⁰ Generally, there is a prevailing sense that higher education partnerships tend to be equal.⁸⁷¹ Equality concerns are more pronounced in Africa, Latin America and the Caribbean.⁸⁷² The case studies confirmed the lack of an accepted, shared understanding of equality. The four case studies did not reveal any existential equality issues, but brought specific equality challenges to the fore, which partners were able to manage.⁸⁷³

(b) Theoretical framework for enhancing equality in international higher education partnerships

There is a strong preference for flexible approaches to partnership contributions and benefits amongst SIOs and a rejection of symmetrical or formal approaches.⁸⁷⁴ Through an analysis of the substantive equality jurisprudence of the South African Constitutional Court it was possible to demonstrate that Fredman's four-dimensional understanding of substantive equality provides a suitable theoretical construct for the understanding of substantive equality.⁸⁷⁵ However, it also

⁸⁶⁸ See chapter 2 III(d).

⁸⁶⁹ See chapter 2 IV(a).

⁸⁷⁰ See chapter 3 IV(b).

⁸⁷¹ Ibid.

⁸⁷² Ibid.

⁸⁷³ See chapter 4 VI.

⁸⁷⁴ See chapter 3 IV(b).

⁸⁷⁵ See chapter 5 VI.

demonstrated that the interpretation of substantive equality presupposes a strong value foundation.

Based on the insight gained through the literature review, the survey, the case studies and the legal analysis, the thesis proposes a four-dimensional, value-based conception for enhancing equality in higher education partnerships which relates to the four dimensions of substantive equality:

For a bilateral international higher education partnership to be considered equal, the following criteria should be met:

- The collaboration has a strong value foundation, based on values including mutuality, transparency and accountability, trust, equity and fairness, academic freedom, promotion of education, research and development and ubuntu.
- All partners make contributions which are equally meaningful considering the context of the partner, and all partners are able to achieve their own priorities to an equal extent through the partnership. Appropriate measures are taken to ensure the equal participation of designated groups in partnership activities.
- All partners recognise and affirm their equal worth, as well as the equal worth of all those who participate in partnership activities in all spheres of the collaboration. Inclusive and non-discriminatory participation in partnership activities is assured.
- Open and transparent communication is practised. Partnership decision-making processes afford equal weight to all partners' voices, and ensure that minority views are considered. Partners actively work towards overcoming hegemonic, colonial or paternalistic tendencies in the collaboration.
- The partnership as a whole affirms the diversity of universities and leverages on the transformative power of collaboration with universities of a different character. Partners share and appreciate the diversity of philosophical foundations for knowledge generation and sharing, research paradigms, and curricula as an asset for collaboration.⁸⁷⁶

⁸⁷⁶ See chapter 6 V(a).

The criteria are indicative of whether a partnership can be considered as equal, but have to be considered holistically and applied flexibly.⁸⁷⁷ The development of partnership guidelines which embed the proposed theoretical framework for equality in higher education partnerships, and the improved agency of ‘weaker’ universities, are the core strategies recommended to achieve equality in partnerships between universities in divergent contexts.⁸⁷⁸

III. Reflection on the study

(a) Contribution to theory and knowledge

The overall objective of the research was to formulate a theoretically sound conceptualisation of equality in higher education partnerships involving partners in divergent contexts characterised by different economic, academic and structural strengths, and to develop an appropriate concept to achieve equality in bilateral international higher education partnerships.

The lack of conceptional understanding of equality among partnership stakeholders was unexpected and resulted in the need to develop new theory.⁸⁷⁹ This new knowledge will have to be validated through further research, and it will be necessary to strengthen the recommended strategies. The significance of the work lies in the fact that for the first time, a comprehensive framework for equality in higher education partnerships is proposed. In developing the concept, it was possible to infuse African philosophy, which may, together with more equal partnerships, contribute to decolonising internationalisation. Thus, the thesis develops theory for an important aspect of internationalisation.

(b) Contribution to methodology

The study demonstrates how the combination of legal and education research methods can result in the generation of new knowledge. The formulation of a clear philosophical stance,

⁸⁷⁷ Ibid.

⁸⁷⁸ See chapter 6 part V(b).

⁸⁷⁹ See chapter 2 V.

which formed the basis for the choice of paradigms and methods, was essential for the study.⁸⁸⁰

This allowed the researcher to be consistent in the development of theory whilst resorting to diverse research methods, which allowed him to develop a deep understanding of the phenomenon under scrutiny.

IV. Limitations

As already stated in the introduction to the thesis,⁸⁸¹ the most prominent limitation of the study is that it was not possible to empirically test the acceptance or otherwise of the proposed theoretical framework for bilateral international higher education partnerships. The scope of the study did not allow for a full exploration of the reason why equality should be regarded as a fundamental value relating to bilateral international higher education partnerships. Furthermore, care must be taken not to generalise the insight gained through the survey and the case studies because of the relatively modest sample size. While the findings of both have been triangulated and are congruent, it is necessary to test them through further research.

Responses to both the survey⁸⁸² and the mini case studies⁸⁸³ may have been influenced by respondents considering certain responses socially desirable. Furthermore, asymmetries in the experience and insight of SIOs or persons bearing institutional responsibility for partnerships into relevant practices and conceptualisations of equality may have influenced the findings of the survey.⁸⁸⁴ In addition, limitations emanating from the relatively small sample size, the inherent limitations of convenience sampling and asymmetries in the sample composition, which are the result of challenges in recruiting participants, are recognised.⁸⁸⁵

⁸⁸⁰ See chapter 1 V.

⁸⁸¹ Chapter 1 VIII.

⁸⁸² Chapter 3.

⁸⁸³ Chapter 4.

⁸⁸⁴ Chapter 3.

⁸⁸⁵ For example, only one respondent hails from Oceania.

It also needs to be noted that the empirical research was limited to bilateral international partnerships. It was not possible to evaluate the dynamics underlying multilateral partnerships or networks, and thus the findings are applicable only to this category of partnerships. They cannot be directly applied to multilateral partnerships or networks, or partnerships with entities other than universities. While the principles may be relevant to other types of partnerships, their applicability would first have to be tested through further research.

V. Recommendations for further research

Although this thesis advances the understanding of international higher education partnerships significantly, further research is required. Most importantly, the theoretical framework offered for equality for the higher education partnership context has not been tested for its practical value and suitability to form the basis of guidelines for stakeholders. It needs to be determined whether it is also suitable for multilateral partnerships and networks. In addition, the implementation strategies need to be fully developed and tested using an evidence-based approach, and their applicability to higher education partnerships and value for partnerships between institutions of similar character should be analysed. Furthermore, the applicability of the principles to networks needs to be determined, and an exploration of the reason why equality should be regarded as a fundamental value relating to bilateral international higher education partnerships is recommended.

Additional systematic research on the theoretical foundations of higher education partnerships is required. It is necessary to determine an appropriate definition of the term 'higher education partnerships', which should also consider networks.⁸⁸⁶ In addition, the shifting rationales of partnerships need to be fully analysed, as well as their foundational

⁸⁸⁶ See chapter 2 II(b).

principles other than equality and partnership processes. Further research should also be undertaken to consider whether it would be beneficial to develop and adopt international instruments relating to partnerships, for example, a UNESCO Declaration on International Higher Education Partnerships.

VI. Personal reflection

Writing this thesis was a challenging but enriching journey for the researcher, who serves as a full-time senior university manager. While his professional duties affected the time available to work on the PhD, the unwavering support of professional friends and the insight gained through countless informal discussions with peers added significant value to the study. It was also beneficial that the author is regularly required to contribute to achieving equality in his own university's partnerships and networks, as well as in the university consortium in which he serves as coordinator.⁸⁸⁷ However, despite this personal proximity to the subject matter which has informed the research and analysis of the relevant issues, he has endeavoured to take an objective approach, amply evidence-based, in keeping with academic ethical considerations, as will be readily apparent throughout the study.

⁸⁸⁷ iKudu project website, available at <https://www.ufs.ac.za/ikudu> (accessed on 10 March 2021). See also Jacobs, Lynette et al 'Adapting a capacity-development-in-higher-education project: doing, being and becoming virtual collaboration' (2021) 39 *Perspectives in Education* 353–371.

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ADDENDUM I: Ethical clearance



Faculty of Law

Research Ethics Committee

Private Bag X3 Rondebosch, 7701 South Africa
Room 6.29, Kramer Building, Middle Campus
Tel: +27 021 650 3080 Fax: +27 021 650 5660
E-mail: lanize.vuljoen@uct.ac.za
Internet: www.law.uct.ac.za

13 December 2016

Mr Conrad Cornelius Hagenmeier
c/o Commercial Law Department
Kramer Law Building
Faculty of Law, Middle Campus
University of Cape Town

Email: chagenmeier@gmail.com or mobile: 0837574534

Dear Mr Hagenmeier

Re: Clearance Process: ref L0040/2016: "Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts"

Thank you for your revised application submitted. The Faculty's Research Ethics Committee very much appreciates the considerable effort put into the documentation.

This study has been carefully considered and all ethical issues have been adequately addressed.

Ethics clearance is hereby granted as of 12 December 2016 and is subject to renewal for another 12 months.

Please note that any material changes to the proposal will need to be cleared as an amendment.

With best wishes,

Signature Removed

pp
Associate Professor Julie Berg
REC: CHAIRPERSON

cc: Prof Evans Kalula, IAPO Director: UCT

ADDENDUM II: Renewal 23 January 2019



Faculty of Law

Research Ethics Committee

Private Bag X3 Rondebosch, 7701 South Africa
Room 6.29 Kramer Building, Middle Campus
Tel: +27 021 650 3080 Fax: +27 021 650 5660
E-mail: lanize.viljoen@uct.ac.za
Internet: www.law.uct.ac.za

23 January 2019

Mr Conrad Cornelius Hagenmeier

c/o Commercial Law Department
Kramer Law Building
Faculty of Law, Middle Campus
University of Cape Town

Contact information:

Email: chagenmeier@gmail.com or mobile: 0837574534

Dear Mr Hagenmeier

I have reviewed your request for an extension of your ethics clearance for your research entitled:
"Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts"

An extension of ethics clearance is hereby granted from 22 January 2019 for a period of twelve months.

Ref: L0040/2016

With best wishes,

 Signature Removed

Dr Kelley Mout
REC: CHAIRPERSON

cc: Prof E Kalula (Supervisor, University of Cape Town)

"Our Mission is to be an outstanding teaching and research university, educating for life and addressing the challenges facing our society."

ADDENDUM III: Renewal and amendment 6 December 2019



Faculty of Law: **Research Ethics Committee**

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Certificate of (1) Renewed Approval; (2) Amendment to original protocol

PRINCIPAL INVESTIGATOR/SUPERVISOR: EVANCE KALULA	ETHICS REFERENCE NUMBER: L0040-2016
STUDENT: CONRAD HAGENMEIER- HGNCON001	ORIGINAL APPROVAL DATE: 12-December-2016
FACULTY: LAW	RENEWED ON: 22-January-2019 (1 st); 06-December-2019
DEPARTMENT: COMMERCIAL	APPROVAL EXPIRY DATE: 05-December-2020
PROJECT TITLE: Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts PURPOSE OF RESEARCH: PhD in Commercial Law. The proposed thesis will investigate whether international higher education partnerships, as presently constructed, are truly equal. The overall objective of the research is to formulate a theoretically sound conceptualisation of equality in higher education partnerships involving partners in divergent contexts characterised by different economic, academic and structural strength, and to develop appropriate concepts and strategies to achieve equality in higher education partnerships.	
CONDITIONS OF APPROVAL This Certificate of Approval is valid for the above term provided there is no change in the protocol. Modifications To make any changes to the approved research procedures in your study, please submit a formal "Request for a Modification" to the REC Administrative Office. You must receive ethics approval before proceeding with your modified protocol. Renewals Your ethics approval must be current for the period during which you are recruiting participants or collecting data. To renew your protocol, please submit a "Request for Renewal" form before the expiry date on your certificate. You are responsible for submitting this by at least 2 months prior to the expiry date of clearance date issued. Project Closures When you have completed all data collection activities and will have no further contact with participants, please formally notify the REC: Law as well as your supervisor where applicable.	
Certification This certifies that the University of Cape Town Law Faculty's Research Ethics Committee has examined this research protocol and concluded that, in all respects, the proposed research meets the appropriate standards of ethics as outlined by the University of Cape Town Research Regulations Involving Human Participants. Signature Removed _____ Associate Professor Kelley Moul LAW REC: CHAIRPERSON	

ADDENDUM IV: Survey cover letter

Cornelius Hagenmeier
UCT Student No HGNCON001
Email: chagenmeier@gmail.com

(name of invitee)

(title)

(university)

By email: (email)

(date)

Dear (name),

REQUEST FOR PARTICIPATION IN SURVEY ON EQUALITY IN UNIVERSITY PARTNERSHIPS/ INFORMATION SHEET AND CONSENT FORM FOR SENIOR INTERNATIONAL OFFICERS

I would appreciate your participation in a research project I am conducting for my doctoral thesis '**Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts**'. I am a PhD student enrolled at the University of Cape Town, South Africa. I am writing my thesis under supervision of Prof Evance Kalula and Prof Hans De Wit (external co-supervisor, Boston College).

Subject matter of the research project

In my study, I investigate whether international higher education partnerships, as presently constructed, are truly equal. The overall objective of the research is to formulate a theoretically sound conceptualisation of equality in higher education partnerships involving universities in divergent contexts characterised by different economic, academic and structural strength, and to develop appropriate concepts and strategies to achieve equality in higher education partnerships. The study deploys a mixed methodology, principally taking recourse to qualitative data collection and analysis as well as human-rights based analysis. This is combined with examination of primary evidence available in partnerships documents and in-depth literature study.

Request for your participation

As part of the research, I undertake a survey of senior international officers on their perceptions of equality in partnerships. I am administering a qualitative email questionnaire to at least one hundred and fifty (150) senior international officers. Only universities for which the details of the senior international officer are ascertainable have been included in the survey. I attach a copy of my research proposal for your information.

I would appreciate it if you could a) complete the attached 'consent to participate in research form', and b) complete the online questionnaire (link: <https://www.surveymonkey.de/r/Hagenmeier2020P1>). Responding to the questionnaire would require approximately 20 minutes of your time.

Voluntary participation

Please understand that you do not have to participate, i.e. your participation is entirely voluntary. The choice to participate is yours alone. If you choose not to participate, there will be no negative consequence. If you choose to participate, but wish to withdraw at any time, you will be free to do so without negative consequence. However, I would be grateful if you would assist me by participating in the research.

Confidentiality and anonymity

Your responses would be handled in strict confidentiality. The questionnaire would only be available to me and my research assistant, who is bound by an agreement ensuring confidentiality. After receipt, I would label your response with an identifier stipulating the world region and the bracket (e.g. 1-100 or 301-400) in which the university is ranked. Those identifiers will be used in evaluation and writeup, no link to your name would be retained. Anonymity would be ensured in the evaluation and writeup of the research. Documents made available would be treated confidentially and the documents you share will not be publicised or used for other purposes than scientific evaluation.

Sharing of results

I undertake to email you a soft copy of my PHD thesis and soft copies of all publications emanating from the research, provided that copyright law allows this.

Possible concerns

If you have concerns about the research, its risks and benefits or about your rights as a research participant in this study, you may contact the Law Faculty Research Ethics Committee Administrator, Mrs Lamize Viljoen, at 021 650 3080 or at lamize.viljoen@uct.ac.za. Alternatively, you may write to the Law Faculty Research Ethics Committee Administrator, Room 6.28 Kramer Law Building, Law Faculty, UCT, Private Bag, Rondebosch 7701.

Thanking you in advance for considering your participation,

Cornelius Hagenmeier

ADDENDUM V: Consent to participate in research (survey)

Consent to Participate in Research

I, a national with passport number /national identity number (please complete one), am an adult presently residing at I have read the information contained in this form. The researcher has explained its contents in a Skype/telephone/personal (please encircle the applicable option) discussion in detail, and I confirm that I have been given the opportunity to ask questions. I understand what my participation in a study for my doctoral thesis 'Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts' means as well as its principal purpose. I understand that:

- 1) the research is designed to generate information that will be used to conduct a study titled 'Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts', which he intends to submit to the University of Cape Town (South Africa) to fulfil the requirement of a PhD Degree in Commercial Law.
- 2) the information I will give will be treated in strict confidence;
- 3) no payment will be made for the information that I will provide;
- 4) participation in the study is voluntary, and I can withdraw at any time when I feel the need has arisen;
- 5) I also consent to the use of the data to develop research papers for conference presentations and publication in academic for a.

Signed _____

Date _____

ADDENDUM VI: First survey / questions

Question 1

Please indicate your gender.

- ☐ Female ☐ Male

Question 2

Please indicate your position in your organisation.

_____.

Question 3

How long have you served in this position?

_____.

*Question 4**

Are you responsible for the management of international bilateral university partnerships at your institution?

- Yes ☐ No ☐

This is a mandatory question. If it is answered with 'no', it results in the respondent being disqualified.

A. Information relating to your university and its international bilateral university partnerships

Question 5

Please indicate how you would characterise the country in which your university is located:

- ☐ Developed country.
☐ Emerging country.
☐ Not sure how to classify it / prefer not to classify it.

Question 6

Please indicate the World Region (using the classification of the International Association of Universities' Worldwide Database of Higher Education Institutions, Systems and Credentials - WHED) in which your university is located.

- ☐ Africa
☐ Asia and the Middle East
☐ Europe
☐ Latin America and the Caribbean
☐ North America
☐ Oceania

Question 7

In terms of the Times Higher Education Rankings, how is your university ranked?

- ☐ 1 - 100

- ☐ 101 - 200
- ☐ 201 - 300
- ☐ 301 - 400
- ☐ 401 - 500
- ☐ 501 - 600
- ☐ 601 - 800
- ☐ Not ranked
- ☐ Not sure / prefer not to answer.

Question 8

How many international bilateral university partnerships does your institution have?

—

Question 9

Does your university have a standard template for Memoranda of Understanding relating to your international bilateral university partnerships?

Yes ☐ No ☐ (if ticked, question 12 follows)

Question 10 (follows question 8 if the answer 'yes' is ticked)

Would you be willing to attach such a standard template?

Yes ☐ No ☐ (if ticked, question 12 follows)

Question 11 (follows question 9 if the answer 'yes' is ticked)

Please upload the standard template for your Memoranda of Understanding.

Question 12

Does your university have any policy which governs international partnerships?

Yes ☐ No ☐ (if ticked, question 13 follows)

Question 13

Would you be willing to share your university's policy governing international partnerships?

Yes ☐ No ☐ (if ticked, question 14 follows)

Question 14

Please upload your university's policy governing international partnerships.

Question 15

How many of your international bilateral university partnerships would you classify as partnerships with higher education institutions which are broadly similar to your own institution in terms of ranking? (you may choose not to answer this question)

Count: ____

Question 16

How many of your international bilateral university partnerships would you classify as such with higher education institutions which you think are comparatively lower ranked than your own institution? (you may choose not to answer this question)

Count: ____

Question 17

How many of your international bilateral university partnerships would you classify as such with higher education institutions which you think are comparatively higher ranked than your own institution? (you may choose not to answer this question)

Count: ____

Question 18

If you choose not to answer questions 11 – 13, please tell me why:

- ☐ I do not feel comfortable classifying my university's international bilateral university partnerships.
- ☐ I am not able to classify my university's international bilateral university partnerships.
- ☐ I do not want to state my reason
- ☐ I do not want to classify my university's international bilateral university partnerships pursuant to the following reason(s):

Question 19

Is equality in your university's international bilateral university partnerships a major concern? Please indicate on a scale from one (not a concern) to ten (a major concern).

- | | | | | | | | | | |
|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

Question 20

Do you consider the international bilateral university partnerships which your university has entered with 'higher ranked' partner universities as equal? Please indicate on a scale from one (totally unequal) to ten (completely equal).

- | | | | | | | | | | |
|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

Question 21

Do you consider the international bilateral university partnerships your university has entered with 'lower ranked' partner universities as equal? Please indicate on a scale from one (totally unequal) to ten (completely equal).

- | | | | | | | | | | |
|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

Question 22

In the context of your institution's international bilateral university partnerships, what are your views relating to equality? (you can choose more than one answer)

- ☐ Equality is an essential prerequisite for the success of our partnerships.
- ☐ Equality is not a major factor for the success of our partnerships.
- ☐ We have lost important partners because the respective partnerships were not equal.
- ☐ We discuss the issue of equality openly and frankly with our partners.
- ☐ We do not talk about equality with our partners.
- ☐ It is important to us that partnership contributions are equal.
- ☐ It is important to us that partnership benefits are equally shared.
- ☐ Equality is not an issue in our university's partnerships.
- ☐ Equality is easier to achieve when our partner university is located in the same world region as our university.
- ☐ Equality is more difficult to achieve when our partner university is located in the same world region as our university.

The following additional issue/s come to my mind concerning equality in our partnerships:

B. Your personal views on equality in higher education partnerships

Question 23

Do you consider equality to be a fundamental principle underlying international bilateral university partnerships?

- ☐ Yes, I think equality is an important principle relating to international bilateral university partnerships. (if ticked, question 23 follows)
- ☐ No, I do not think equality is an important principle underlying international bilateral university partnerships. (if ticked, question 24 follows)

Question 24

Why do you consider equality to be a fundamental principle underlying international bilateral university partnerships? (follows a 'YES' in question 22)

- ☐ Because it is important that partners make equal contributions to the partnership. Please give reasons (you can give more than one reason):
- ☐ Because the benefits of a partnerships should devolve equally on partners.
- ☐ Because no partner should dominate a partnership.
- ☐ Because equality is a basic principle of fairness.

Because of the following reason/s (elaborate): _____

Question 25 (follows a 'NO' in question 22)

Why should in your opinion equality not be regarded as a fundamental principle underlying international bilateral university partnerships? Please give reasons (you can give more than one reason):

- ☐ Because it suffices if partnerships are based on ethical principles.
- ☐ Because a partner to a partnership who invests more in a joint effort should be entitled to a greater share in the partnership benefit.
- ☐ Because it is necessary to recognise power relations in partnerships, it can be justified for one partner to have influence on partnership decision making and a greater share in the partnership benefit.
- ☐ Because I would rather want to rather apply the principle of equity than equality to partnerships.

Because of the following reason (elaborate): _____

Question 26

In your view, are international bilateral university partnerships as presently construed truly equal? Please indicate on a scale from one (totally unequal) to ten (completely equal) whether you consider partnerships, specifically between universities of different strength, as unequal or equal.

- | | | | | | | | | | |
|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

Question 27

Please substantiate the reason for your answer above:

Question 28

Do you consider equality as an issue which predominantly arises in bilateral international university partnerships between higher education institutions of substantively differing ranking positions?

- ☐ Yes, equality concerns predominantly arise in partnerships between higher education institutions of substantively differing ranking positions.
- ☐ No, equality concerns can arise in any partnership irrespective of the respective ranking position of the partner universities.

Question 29

Do you consider equality as an issue which predominantly arises in international bilateral university partnerships between higher education institutions where one partner is located in a developing and the other partner in an emerging country?

- ☐ Yes, equality concerns predominantly arise in partnerships between higher education institutions located in developing and emerging countries.
- ☐ No, equality concerns can arise in any higher education partnership irrespective of whether the partners developing and emerging countries.

Question 30

What are in your view the most common causes for a lack of equality in partnerships? (you can choose more than one answer)

- ☐ Equality concerns are caused by one partner having a stronger negotiating position than the other.

- Equality concerns are caused by one partner being more dependent on the successful establishment of the partnership than the other.
- Equality concerns are caused by one university being more skilful in their negotiation tactics than the other.
- Equality concerns are caused by one university acting in bad faith in the negotiations.
- Equality concerns are caused by partner universities not communicating openly and frankly about this issue.
- Equality concerns are caused by weak partnership decision-making structures.

Equality concerns are caused by the following (elaborate):

Question 31

Which conditions must be met for a higher education partnership to be considered as 'equal'? (you can choose more than one answer)

- There must be equal contributions to the partnership.
- The partnership must yield equal benefits for the partners.
- The partners must have an equal influence on the partnerships decision-making processes.

Please state additional conditions which should in your opinion be met for a partnership to be considered equal:

Question 32

How should in your view contributions to bilateral international university partnerships be determined? (you can choose more than one answer)

- Partners must make exactly identical contributions to partnerships.
- Partnership contributions must be equal in value, but the kind of contribution may differ between the partners.
- Partnership contributions should be equally meaningful taking the context of the partner into consideration.
- Partnership contributions should be equitable.
- Partnership contributions may be unequal between the partners.

In my view, partnership contributions should be determined according to the following principles:

Question 33

How should in your opinion the benefits of bilateral international university partnerships devolve on the partners? (you can choose more than one answer)

- The benefit should devolve on partners proportionate to the value of their contributions to the partnership.
- The partnership benefit must be equitably distributed, depending on the context of the partners and the collaboration.

In my opinion, the benefit should devolve on partners according to the following principles:

Question 34

What could in your view be done to enhance equality in higher education partnerships? (you can choose more than one answer)

- Develop a clear definition describing equality in partnerships.
- Develop guidelines / best practice standards for relating to equality in partnerships.
- Define a metric of exchange which allows for different contributions to a partnership be considered when determining whether it is equal.
- Nothing, one should rather promote general principles of equity.

Please state additional conditions which must be met for a partnership to be considered equal:

Question 35

Do you think that partnerships between unequal higher education institutions typically result in the 'lower ranked' partner or the 'higher ranked' partner yielding a greater benefit? Please indicate on a scale from one (the lower ranked partner benefits more) to ten (the higher ranked partner benefits more).

☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
1	2	3	4	5	6	7	8	9	10

Question 36

Please substantiate the reason for your answer above:

Question 37

In your view, are issues of equality more pronounced in international bilateral university partnerships when both partners are located in different world regions (e.g. North America or Southern Africa)? Please indicate on a scale from one (absolutely identical) to ten (more pronounced) your opinion.

☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
1	2	3	4	5	6	7	8	9	10

Question 38

Please substantiate the reason for your answer above:

ADDENDUM VII: 2nd survey

A. Personal

*Question 1**

Please indicate your gender.

- ☐ Female ☐ Male ☐ Prefer not to say

*Question 2**

Please indicate your position in your organisation.

_____.

Question 3

How long have you served in this position?

_____.

*Question 4**

Are you responsible for the management of international bilateral university partnerships at your institution?

- Yes ☐ No ☐

This is a mandatory question. If it is answered with 'no', it results in the respondent being disqualified.

B. Information relating to your university and its international bilateral university partnerships

Question 5

Please indicate how you would characterise the country in which your university is located:

- ☐ Developed country.
☐ Emerging country.
☐ Not sure how to classify it / prefer not to classify it.

Question 6

Please indicate the World Region (using the classification of the International Association of Universities' Worldwide Database of Higher Education Institutions, Systems and Credentials - WHED) in which your university is located.

- ☐ Africa
☐ Asia and the Middle East
☐ Europe
☐ Latin America and the Caribbean
☐ North America
☐ Oceania

Question 7

In terms of the Times Higher Education Rankings, how is your university ranked?

- ☐ 1 - 100

- ☐ 101 - 200
- ☐ 201 - 300
- ☐ 301 - 400
- ☐ 401 - 500
- ☐ 501 - 600
- ☐ 601 - 800
- ☐ Not ranked
- ☐ Not sure / prefer not to answer.

Question 8

How many international bilateral university partnerships does your institution have?

C. Your institution's international bilateral university partnerships.

Question 8

How many international bilateral university partnerships does your institution have?

Count: ____

Question 9

Is equality a major concern in your university's international bilateral university partnerships? Please indicate on a scale from one (not a concern) to ten (a major concern).

- | | | | | | | | | | |
|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

not a concern

a major concern

Question 10

In the context of your institution's international bilateral university partnerships, what are your views relating to equality (you can choose more than one answer)?

- ☐ Equality is an essential prerequisite for the success of our partnerships.
- ☐ Equality is not a major factor for the success of our partnerships.
- ☐ We have lost important partners because the respective partnerships were not equal.
- ☐ We discuss the issue of equality openly and frankly with our partners.
- ☐ It is important to us that partnership contributions are equal.
- ☐ It is important to us that partnership benefits are equally shared.
- ☐ Equality is not an issue in our university's partnerships.
- ☐ Other:

• _____

D. Your personal views on equality in higher education partnerships

Question 11

Do you consider equality to be a fundamental principle underlying international bilateral university partnerships?

- ☐ Yes, I think equality is an important principle relating to international bilateral university partnerships.

Question 12 (Follows if the answer 'yes' is ticked)

What is your personal understanding of equality international bilateral university partnerships? (max 250 words)

Question 13 (Follows if the answer 'yes' is ticked)

Please give reasons (you can give more than one reason):

- ☐ Yes, because it is important that partners make equal contributions to the partnership.
- ☐ Yes, because the benefits of a partnerships should devolve equally on partners.
- ☐ Yes, because no partner should dominate a partnership.
- ☐ Yes, because equality is a basic principle of fairness.
- ☐ Other:
 - ☐ _____
- ☐ No, I do not think equality is an important principle underlying international bilateral university partnerships.

Question 14 (Follows if the answer 'no' is ticked)

Please give reasons (you can give more than one reason):

- ☐ No, because it suffices if partnerships are based on ethical principles.
- ☐ No, because a partner to a partnership who invests more in a joint effort should be entitled to a greater share in the partnership benefit.
- ☐ No, because it is necessary to recognise power relations in partnerships, it can be justified for one partner to have a greater influence on partnership decision making and a greater share in the partnership benefit.
- ☐ No, because I would rather want to rather apply the principle of equity than equality to partnerships.

○ Other:

- _____

Question 15

In your view, are international bilateral university partnerships between universities of different strength as presently construed truly equal? Please indicate on a scale from one (totally unequal) to ten (completely equal) whether you consider partnerships between universities of different strength as unequal or equal.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

1 2 3 4 5 6 7 8 9 10

totally unequal

completely equal

Question 16

Please substantiate the reason for your answer (max 250 words):

Question 17

Do you consider equality as an issue that predominantly arises in bilateral international university partnerships between higher education institutions of different ranking positions?

- Yes, equality concerns predominantly arise in partnerships between higher education institutions of ranking positions.
- No, equality concerns can arise in any partnership irrespective of the respective ranking position of the partner universities.

Question 18

Do you consider equality as an issue that predominantly arises in international bilateral university partnerships between higher education institutions where one partner is located in a less-resourced context compared to the other partner?

- Yes, equality concerns predominantly arise in partnerships between higher education institutions located in differently resourced contexts.
- No, equality concerns can arise in any higher education partnership irrespective of whether the partners are located in differently resourced contexts.

Question 19

What are in your view the most common causes for a lack of equality in partnerships? (you can choose more than one answer)

- Equality concerns are caused by different ranking positions of universities.

- Equality concerns are caused by partners being located in differently resourced contexts.
- Equality concerns are caused by universities belonging to different categories, e.g. research universities partnering with universities of technology.
- Equality concerns are caused by one partner having a stronger negotiating position than the other.
- Equality concerns are caused by one university acting in bad faith in the negotiations.
- Equality concerns are caused by a lack of trust.
- Equality concerns are caused lack of communication.
- Equality concerns are caused by weak partnership decision-making structures.
- Other:

•

Question 20

Which conditions must be met for a higher education partnership to be considered as 'equal'? You can tick as many conditions as you want.

- There must be equal contributions to the partnership.
- The partnership must yield equal benefits for the partners.
- The partners must have an equal influence on the partnerships decision-making processes.
- Other:

•

Question 21

How should in your view contributions to bilateral international university partnerships be determined?

- Partners must make exactly identical contributions to partnerships.
- Partnership contributions must be equal in value, but the kind of contribution may differ between the partners.
- Partnership contributions should be equally meaningful taking the context of the partner into consideration.
- Partnership contributions should be equitable.
- Partnership contributions may be unequal between the partners.
- Other:

•

Question 22

How should in your opinion the benefits of bilateral international university partnerships devolve equally on the partners?

- The benefit should devolve on partners proportionate to the value of their contributions to the partnership.
- The partnership benefit must be equitably distributed, depending on the context of the partners and the collaboration.
- Other:

- _____

Question 23

What could in your view be done to enhance equality in higher education partnerships?

- Develop a clear definition describing equality in partnerships.
- Develop guidelines / best practice standards for relating to equality in partnerships.
- Define a metric of exchange which allows for different contributions to a partnership to be considered when determining whether it is equal.
- Nothing, one should rather promote general principles of equity.
- Other:

- _____

ADDENDUM VIII: Letter requesting university participation in case studies

Cornelius Hagenmeier

UCT Student No HGNCON001

Email: chagenmeier@gmail.com

Dear _____

REQUEST FOR PARTICIPATION IN STUDY ON EQUALITY IN UNIVERSITY PARTNERSHIPS/ INFORMATION SHEET AND INSTITUTIONAL CONSENT FORM

I would appreciate your university's participation in a research project I am conducting for my doctoral thesis '**Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts**'. I am a PhD student enrolled at the University of Cape Town, South Africa. I am writing my thesis under supervision of Prof Evance Kalula and Prof Hans De Wit (external co-supervisor, Boston College).

Subject matter of the research project

In my study, I investigate whether international higher education partnerships, as presently constructed, are truly equal. The overall objective of the research is to formulate a theoretically sound conceptualisation of equality in higher education partnerships involving universities in divergent contexts characterised by different economic, academic and structural strength, and to develop appropriate concepts and strategies to achieve equality in higher education partnerships. The study deploys a mixed methodology, principally taking recourse to qualitative data collection and analysis as well as human-rights based analysis. This is combined with examination of primary evidence available in partnerships documents and in-depth literature study.

Request for participation of your institution

As part of the research, I plan in-depth case studies of five partnerships. The sample will focus on bilateral partnerships between universities of different strength in Europe and Southern Africa or within Southern Africa. The partnerships which have been selected are those between well-resourced, well-established universities and relatively less-resourced, less-established universities. In these case studies, a variety of stakeholders in bilateral university partnerships from both partner institutions will be conversed with in semi-structured interviews. At each institution, at least the senior international officer, at least one representative of high-level university leadership (President/Vice-Chancellor or other member of executive management), at least one representative of responsible academic leadership (Provost/Deputy Vice-Chancellor Academic or Dean), as well as an administrative officer and one academic involved in the partnership will be interviewed. Additionally, the principal documents relating to the partnerships will be analysed.

I would appreciate it if the partnership between your university and [insert name] university could be part of my sample. I am requesting approval for participation from [insert name] university directly, with this letter I am seeking permission to approach the abovementioned personnel at your University. Individual informed consent would be requested from each

participant, I attach a copy of the generic 'REQUEST FOR PARTICIPATION IN SURVEY ON EQUALITY IN UNIVERSITY PARTNERSHIPS/ INFORMATION SHEET AND CONSENT FORM FOR UNIVERSITY STAFF MEMBERS' for your information. Furthermore, I would be grateful if you could grant permission that the principal documents relating to the partnership (relevant Memoranda of Understanding, Memoranda of Agreement, and other constituting documents) to be made available to me for purposes of my research project by the relevant unit.

I would appreciate it if you could a) either grant the requested consent yourself or, in the alternative, b) delegate the response to the relevant decision-making body or decision-maker at your University.

Voluntary participation

Your institution's participation is entirely voluntary, the choice to participate depends on your university alone. If your university chooses to participate, but wishes to withdraw at any time, this will be possible without any negative consequence. However, I would be grateful if your university would assist me by participating in the research.

Confidentiality and anonymity

Your staff members' responses and the documents disclosed by your University would be handled in strict confidentiality. Personalised data would not be used or published. Neither would the documents your institution shares be publicised. The case studies in the thesis and in publications will not be referred to by name of the partner institutions or by name of the stakeholders participating in the semi-structured interviews. The respondents to the semi-structured interviews will not be identified by name. For purposes of archiving, evaluation and write-up identifiers will be assigned to the partnerships and the universities involved in them. The respondents will be referred to by functional job-description as would be used in the South African context, e.g. 'Vice-Chancellor', 'Deputy Vice-Chancellor', 'Dean', 'senior international officer', 'administrative officer' or 'academic'.

Sharing of results

I undertake to email your institution a soft copy of my PHD thesis and soft copies of all publications emanating from the research to you and all stakeholders at your, provided that copyright law allows this.

Possible Concerns

If you have concerns about the research, its risks and benefits or about your rights as a research participant in this study, you may contact the Law Faculty Research Ethics Committee Administrator, Mrs Lamize Viljoen, at +27 21 650 3080 or at lamize.viljoen@uct.ac.za. Alternatively, you may write to the Law Faculty Research Ethics Committee Administrator, Room 6.28 Kramer Law Building, Law Faculty, UCT, Private Bag, Rondebosch 7701, South Africa.

Thanking you in advance for considering your University's participation,

Conrad Cornelius Andreas Hagenmeier

ADDENDUM IX: Institutional consent for participation in case studies

Consent to participate in research (institutional consent)

I , duly authorized by the [insert name of institution], am an adult presently residing at and hold the position of.....[insert functional responsibility] my university. I have read the information contained in this form. The researcher has explained its contents in a Skype/telephone/personal (please encircle the applicable option) discussion in detail and I confirm that I have been given the opportunity to ask questions. I understand what my institution's participation in this study means as well as its principal purpose. I understand that:

- 1) the research is designed to generate information that will be used to conduct a study titled 'Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts', which the researcher intends to submit to the University of Cape Town (South Africa) to fulfill the requirement of a PhD Degree in Commercial Law;*
- 2) the information my institution will give will be treated in strict confidence;*
- 3) no payment will be made for the information that my institution or any of its staff members will provide;*
- 4) participation in the study is voluntary and my institution can withdraw at any time when it feels the need has arisen;*
- 5) no staff member of my institution will participate unless the research has obtained her or his informed consent.*
- 6) my institution also consents to the use of the data to develop research papers for conference presentations and publication in academic fora.*

On behalf of the[insert name of institution], I hereby grant permission for the researcher to conduct semi-structured interviews relating to his research project at my institution provided that he obtains the informed consent of the relevant staff members, and allow my staff members to participate in the research. Staff members are granted permission to make the relevant founding documents relating to the partnership under scrutiny available to the researcher. I confirm that I am authorised to grant this permission.

Signed _____

Date _____

ADDENDUM X: Letter requesting individual consent for participation in case studies

Cornelius Hagenmeier

UCT Student No HGNCON001

Email: chagenmeier@gmail.com

Dear _____

REQUEST FOR PARTICIPATION IN STUDY ON EQUALITY IN UNIVERSITY PARTNERSHIPS/ INFORMATION SHEET AND CONSENT FORM FOR STAFF MEMBERS OF UNIVERSITIES SELECTED FOR CASE STUDIES

I would appreciate your participation in a research project I am conducting for my doctoral thesis '**Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts**'. I am a PhD student enrolled at the University of Cape Town, South Africa. I am writing my thesis under supervision of Prof Evance Kalula and Prof Hans De Wit (external co-supervisor, Boston College).

Subject matter of the research project

In my study, I investigate whether international higher education partnerships, as presently constructed, are truly equal. The overall objective of the research is to formulate a theoretically sound conceptualisation of equality in higher education partnerships involving universities in divergent contexts characterised by different economic, academic and structural strength, and to develop appropriate concepts and strategies to achieve equality in higher education partnerships. The study deploys a mixed methodology, principally taking recourse to qualitative data collection and analysis as well as human-rights based analysis. This is combined with examination of primary evidence available in partnerships documents and in-depth literature study.

Request for your participation

As part of the research, I plan in-depth case studies of five partnerships. The sample will focus on bilateral partnerships between universities of different strength in Europe and Southern Africa or within Southern Africa. The partnerships which have been selected are those between well-resourced, well-established universities and relatively less-resourced, less-established universities. In these case studies, a variety of stakeholders in bilateral university partnerships from both partner institutions will be conversed with in semi-structured interviews. At each institution, at least the senior international officer, at least one representative of high-level university leadership (President/Vice-Chancellor or other member of executive management), at least one representative of responsible academic leadership (Provost/Deputy Vice-Chancellor Academic or Dean), as well as an administrative officer and one academic involved in the partnership will be interviewed. Additionally, the principal documents relating to the partnerships will be analysed. One of the partnerships selected for inclusion in the study is the partnership between your University and [insert name] University. Your Vice-

Chancellor/delegated authority [use appropriate designation] has consented that your institution be involved in the project, and granted permission to relevant staff members to be respondents to the semi-structured interviews. I attach a copy of your University's consent.

I would appreciate it you would be prepared to participate in a semi-structured interview in which I would ask you questions relating to the research. I would appreciate it if you could a) complete the 'consent to participate in research form' below, b) be available for personal interview, which would be tape recorded and later transcribed. This would require approximately ½ hour of your time.

Voluntary participation

Please understand that you do not have to participate, ie your participation is voluntary. The choice to participate is yours alone. If you choose not to participate, there will be no negative consequence. If you choose to participate, but wish to withdraw at any time, you will be free to do so without negative consequence. However, I would be grateful if you would assist me by participating in the research.

Confidentiality and anonymity

Your responses and any documents disclosed would be handled in strict confidentiality. Personalised data would not be used or published. The case studies will not be referred to by name of the partner institutions or by name of the stakeholders participating in the semi-structured interviews in the thesis or in publications. For purposes of archiving, evaluation and writeup identifiers will be assigned to the partnerships and the universities involved in them. The respondents will be referred to by functional job-description as would be used in the South African context, e.g. 'Vice-Chancellor', 'Deputy Vice-Chancellor', 'Dean', 'senior international officer', 'administrative officer' or 'academic', no link to names will be retained.

Possible concerns

If you have concerns about the research, its risks and benefits or about your rights as a research participant in this study, you may contact the Law Faculty Research Ethics Committee Administrator, Mrs Lamize Viljoen, at +27 21 650 3080 or at lamize.viljoen@uct.ac.za. Alternatively, you may write to the Law Faculty Research Ethics Committee Administrator, Room 6.28 Kramer Law Building, Law Faculty, UCT, Private Bag, Rondebosch 7701, South Africa.

Thanking you in advance for considering your participation,

Conrad Cornelius Andreas Hagenmeier

ADDENDUM XI: Individual consent to participate in research

Consent to participate in research

Iam an adult presently residing at I have read the information contained in this form. The researcher has explained its contents in a Skype/telephone/personal (please encircle the applicable option) discussion in detail and I confirm that I have been given the opportunity to ask questions. I understand what my participation in this study means as well as its principal purpose. I understand that:

- 1) the research is designed to generate information that will be used to conduct a study titled 'Equality in Higher Education Partnerships: Defining the Concept in Divergent Contexts', which I intend to submit to the University of Cape Town (South Africa) to fulfill the requirement of a PhD Degree in Commercial Law. I also intend to publish the results in scientific journals and present them at scientific conferences;*
- 2) the information I will give will be treated in strict confidence;*
- 3) no payment will be made for the information that I will provide;*
- 4) participation in the study is voluntary and I can withdraw at any time when I feel the need has arisen;*
- 5) I also consent to the use of the data to develop research papers for conference presentations and publication in academic fora.*

Signed _____

Date _____

ADDENDUM XII: Interview Guide President/Vice-Chancellor or another member of executive management or Provost/Deputy Vice-Chancellor or Dean or Senior International Officer

A. Personal

Question 1

Please indicate your position in your organisation.

Question 2

How long have you served in this position?

B. Partnership Strategy

Question 3

What is your university's strategic approach to bilateral international partnerships?

Question 4

How is your university's strategic approach to bilateral international university partnerships embedded in your university's overall approach to internationalisation?

Question 5

What is your understanding of equality in the context of bilateral international university partnerships?

Question 6

Do you consider equality to be a fundamental principle underlying bilateral international university partnerships?

(If the answer is negative, omit questions 8 to 15, but ask 8a and 8b)

Question 7

When your university's strategic approach to bilateral international university partnerships was developed, was special attention devoted to equality?

(Positive answer - ask question 7a to 7c)

Question 7a

Which strategies has your university adopted to achieve equality in its bilateral international university partnerships?

Question 7b

Are the mentioned strategies successful?

Question 7c

How could the strategies be improved?

(Negative answer – ask question 7d)

Question 7d

Which strategies, if any, should your university in your view adopt to achieve equality in its bilateral international university partnerships?

Question 8 (only ask if answer to question 6 was positive)

Do you consider equality as an issue which predominantly arises in bilateral international university partnerships between higher education institutions of divergent strength?

Question 8a (ask only if answer to question 6 was negative)

How can in your opinion the success of bilateral international partnerships with a (better/worse) resourced university be ensured?

Question 8b (ask only if answer to question 6 was negative)

How would you respond if a representative of a partner university would raise an issue relating to equality or equity?

Question 9 (only ask if answer to question 6 was positive)

Which conditions must be met for a bilateral international higher education partnership to be considered as 'equal'?

Question 10 (only ask if answer to question 6 was positive)

Do you consider equality as an issue which predominantly arises in bilateral international university partnerships between higher education institutions of substantively differing ranking positions?

Question 11 (only ask if answer to question 6 was positive)

Do you consider equality as an issue which predominantly arises in bilateral international university partnerships between higher education institutions where one partner is located in a developing and the other partner in an emerging country?

Question 12

What are in your view the most common causes for a lack of equality in bilateral international higher education partnership?

Question 13

How should in your view contributions to bilateral international university partnerships be determined?

Question 14

How should in your opinion the benefits of bilateral international university partnerships devolve on the partners?

Question 15

What could in your view be done to enhance equality in bilateral higher education partnerships?

C. Specific questions relating to Partnership with ____

Question 16

Please briefly share the history of your university's partnership with ____ from your perspective.

Question 17

What is your personal involvement in your university's partnership with ____?

Question 18

How are issues of equality and equity approached in this partnership?

Question 19

Which factors are in your view impacting on issues of equality and equity in this specific partnership?

Question 20

In your view, was it possible to sufficiently address issues of equality and equity in this partnership to date?

Question 21

Are you able to discuss issues of equality and equity in this partnership openly, and if so, through which channels?

Question 22

How could issues of equality and equity be better addressed in the future in this partnership?

ADDENDUM XIII Interview Guide for Academic or Administrator

A. Personal

Question 1

Please indicate your position in your organisation.

Question 2

How long have you served in this position?

B. Partnership Strategy

Question 3

What is your university's strategic approach to bilateral international higher education partnership?

Question 4

How is your university's strategic approach to bilateral international higher education partnership embedded in your university's overall approach to internationalisation?

Question 5

What is your understanding of equality in the context of bilateral international university partnerships?

Question 6

Do you consider equality to be a fundamental principle underlying bilateral international university partnerships?

Question 7

Does your university sufficiently support you in addressing issues relating to equity and equality in bilateral partnerships you are involved in?

Question 8

How could your university better support you in addressing issues relating to equity and equality in bilateral partnerships you are involved in?

Specific questions relating to Partnership with ____

Question 9

Please briefly share the history of your university's partnership with ____ you're your perspective.

Question 10

What is your personal involvement in your university's partnership with ____?

Question 11

Is equality a major issue in this partnership?

Question 12

How are issues of equality and equity approached in this partnership?

Question 13

Which factors are in your view impacting on issues of equality and equity in this specific partnership?

Question 14

In your view, was it possible to sufficiently address issues of equality and equity in this partnership to date?

Question 15

Does your university sufficiently support you in addressing issues of equality and equity in this partnership?

Question 16

Are you able to openly discuss issues of equality and equity in this partnership, and if so, through which channels?

Question 17

How could issues of equality and equity be better addressed in the future in this partnership?

Question 18

Have issues of equality and equity adversely impacted on your personal academic collaboration under the umbrella of this partnership?