WHAT'S WRONG WITH OUR UNIVERSITIES?—AN ADDITIONAL VIEW

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I. INTRODUCTION

Few people are as qualified to comment on the strengths and weaknesses of higher education in America as Derek Bok—a distinguished teacher; scholar; dean; university president; chair of numerous task forces, committees, and councils; and leader of major national educational associations for over thirty years. As his term as President of Harvard University draws to a close, it is appropriate that he speak on the broader subject of education.

In his article, *What's Wrong With Our Universities?*,[1] President Bok's purpose is to address the seeming paradox that American commentators have subjected our colleges and universities to strident criticism in recent years, while scholars abroad have continued to hold these institutions in high esteem. He attributes the contrast in views to several causes: (1) United States higher education, with all of its shortcomings, is superior to its foreign counterparts, which possess even greater failings; (2) United States higher education is characterized by heterogeneity and includes some institutions that are undistinguished and that perform imperfectly, opening the entire system to attack; and (3) many criticisms reflect basic contradictions in the demands that society makes upon universities, or such criticisms are not based on the application of sound criteria for evaluation.[2]

In reaching his conclusions, Bok examines the origins, nature, and validity of current criticisms of higher education. The decline in people's confidence in all established institutions during the last two decades; a changing intellectual climate, giving prominence to conservative political and intellectual leaders who view universities as liberal strongholds; and intemperate attacks by disgruntled academics have combined to pro-

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1. Bok, *What's Wrong With Our Universities?*, 14 HARV. J.L. & PUB. POL'Y 305 (1991).
2. *See id.* at 331.

duce the criticisms.[3] Bok asserts that, although it would be possible to refute the charges point-by-point, to do so "would be a tedious exercise, bogging us down in a long, inconclusive recitation of familiar arguments and forgettable statistics" and, in the process, "we would lose sight of the elements of truth embedded in most of the criticisms . . . ."[4]

In lawyer-like fashion, Bok first formulates criteria for evaluating the primary complaints: the quality of undergraduate education, the behavior of tenured faculty, the rapid rise in college costs, and the apparent materialism reflected in actions by universities to increase their revenue. He argues that appropriate criteria are found in what society asks of its universities. An analysis of societal expectations leads him to conclude that society wants universities to produce research of a quality second to none; to educate young people well; to be sufficiently accessible to those who are qualified; and to be able to offer the kinds of education, advice, and critical analysis needed by society.[5]

After addressing criticisms of contemporary higher education, Bok shifts his focus to the issues that he believes need further discussion. In his judgment, the real challenges are: (1) to create incentives to construct alternative models of excellence so that fewer institutions try in vain to replicate research universities; (2) to develop measures to evaluate the quality of learning that will encourage universities to improve their educational programs and will motivate professors to improve their teaching; and (3) to create positive incentives and provide appropriate limits to keep faculty members from spending too much time away from the campus, while respecting the need to share their talents with the rest of society.[6]

In summary, President Bok's discussion reveals an extraordinary grasp of contemporary criticisms of higher education and the extent of their validity. He provides a thorough and reasoned analysis of this subject, especially when compared with the vitriolic outbursts of many who write in the field.

3. *See id.* at 306-09.
4. *Id.* at 308.
5. *See id.* at 309.
6. *See id.* at 332.

II. OBSERVATIONS

Bok's general conclusions clearly seem correct. His explanation of the reasons for the apparent paradox—the difference between American education's esteem in this country and abroad—is that higher education in the United States is better than that which exists in the rest of the world, but it is heterogeneous. Thus, some criticisms are valid for some institutions and not for others. The criticisms, however, are frequently overstated in their rhetoric and without a basis in sound criteria. Bok reminds us once again of what Sir Eric Ashby observed two decades ago—American higher education is distinctive in three ways: size, access, and diversity.[7] What is remarkable is not that deficiencies exist, but that United States education has been able to combine a generally high level of quality, with some institutions equal or superior to the best in the world, and a high level of accessibility, as evidenced by the highest percentage of young people attending college of any nation in the world.

Too often we forget that approximately 12.5 million Americans attend institutions of higher education and that over sixty percent of high school graduates will enroll in college at some time. Each year, the country's colleges and universities award one million baccalaureate degrees, almost one-half million associate degrees, 300,000 master's degrees, 70,000 professional degrees, and 39,000 doctorates. Higher education is a $100 billion enterprise, in which almost half of the institutions of higher education are private and approximately one-fifth of our students attend private colleges and universities.[8] Uniform high quality, even if we could agree on what that means, is simply unattainable in a system as large and heterogeneous as that in the United States.

While Bok's analysis is generally correct, some minor points are open to criticism. The primary deficiency in Bok's analysis is the criteria that he selects for evaluating the merits of current criticisms: public expectations of research "of a quality second

7. *See* Ashby, *Any Person, Any Study: An Essay on Higher Education in the United States*, *reprinted in* L. MAYHEW, THE CARNEGIE COMMISSION ON HIGHER EDUCATION: A CRITICAL ANALYSIS OF THE REPORTS AND RECOMMENDATIONS 278-82 (1973).

8. *See* Hauptman & Anderson, *Background Paper on American Higher Education*, in COMM'N ON NAT'L CHALLENGES IN HIGHER EDUC., MEMORANDUM TO THE 41ST PRESIDENT OF THE UNITED STATES 16, 17 (1988).

to none";[9] effective education of young people to prepare them to live productive lives; accessibility of higher education to those who are qualified; and the ability of institutions to provide the education, advice, and critical analyses that society needs. These criteria do not address the greater issue of whether universities are doing what they should to help the country meet the problems it will face in the next decade. For instance, universities may be generally accessible, and research and teaching may be excellent, but they properly should be criticized, however, if that teaching and research is not related to the serious issues that will face the nation in a rapidly changing world.[10]

Of equal concern is Bok's failure to recognize that very few universities will be viewed as performing well if judged by all of his criteria. Bok believes that research universities successfully perform the functions outlined in his criteria, but in reality, fewer do than he suggests. Many research universities, like other institutions, are required to set priorities and sacrifice, to some degree, one or more of the functions Bok lists. Some sacrifice undergraduate education in an effort to produce "research of a quality second to none," either because of faculty desire to conduct research, the importance of institutional self-esteem or reputation, or the supposed contribution to economic development of a region, or for other reasons.

The problem for most institutions is not acceptance of Bok's criteria in the abstract, but knowing where and how to seek an appropriate balance with the finite resources available. Stipends to graduate students, need-based financial aid to minorities, start-up costs for laboratories for new faculty, release time for faculty members to conduct research, student counseling, reduction of teaching loads to permit faculty to serve as staff of public agencies or committees—these all compete for scarce funds. Although most universities would readily ascribe to Bok's criteria if adequate funds were available, balance and priorities are the real issues for most universities. Thus, much of public criticism reflects a failure to understand that most uni-

9. Bok, *supra* note 1, at 309.

10. Bok undoubtedly omitted a discussion of this problem intentionally because he dealt with these issues in his recently published book, D. BOK, UNIVERSITIES AND THE FUTURE OF AMERICA (1990).

versities cannot do all that the public wishes without sufficient funding.

A related issue that Bok fails to explain adequately is the use of university funds to reduce the tuition of poorer students. Bok comments that it is rarely true that high-priced schools use tuition from middle-class families to pay the cost of educating poorer students because, "[i]n these institutions, because of endowments and current gifts, even students who receive no financial aid do not pay nearly the full cost of their education."[11] He concedes that higher tuitions may help to maintain higher levels of financial aid, but that they do so only by reducing ample subsidies given to the wealthier students, not by actually taxing them to help their poorer classmates.

Upon analysis, one questions whether there is an element of sophistry in Bok's approach here. A significant amount of financial aid at many institutions is funded from current unrestricted funds, in addition to income from endowments and gifts. If these funds were not used for financial aid, presumably they could be used to improve the quality of the education provided to students paying full tuition, or to reduce costs for these students. Although endowment income and gifts undoubtedly go toward subsidizing such students, those funds also pay for graduate education and research in many institutions, with the result that some financial aid is provided from tuition paid by wealthier students.

In institutions with smaller endowments, need-based financial aid is necessarily financed from tuition. Candor requires admitting that there is often a "Robin Hood" element in charging higher tuition and recycling that tuition to enable disadvantaged students to attend institutions that they could not otherwise afford. Public concern about this practice may well be one of the reasons motivating the United States Justice Department's recent investigation of allegations of price fixing by a number of distinguished universities.[12]

Recycling part of tuition to provide financial aid to disadvantaged students is not necessarily wrong. There is a public responsibility to broaden the base of education in order to avoid

11. Bok, *supra* note 1, at 324 n.46.

12. *See Justice Department's Antitrust Investigation Focuses on Elite Colleges*, Chron. Higher Educ., Jan. 30, 1991, at 1, col. 2; *Price-Fixing Inquiry at 20 Elite Colleges*, N.Y. Times, Aug. 10, 1989, at A1, col. 2.

excluding students of talent who have inadequate means. Also, the opportunity for more affluent students to study with students who bring socio-economic perspectives to the classroom that are different from those normally acquired in upper middle-class families improves the education of the more affluent students. These explanations may justify imposing higher tuitions to provide more financial aid for disadvantaged students. The issue, however, is not answered adequately, as Bok suggests, by merely saying that middle-class students are only receiving less of a subsidy from endowment and gifts than would otherwise be the case.

Bok's discussion of the ways in which faculties can be induced to place more emphasis on good teaching and less emphasis on research also merits comment. He concludes that undue emphasis on research to the detriment of good teaching is "more serious in universities that lack distinguished research faculties."[13] Unquestionably, faculties at many less distinguished research institutions believe that the heavy publication requirements imposed by administrations for promotion are disproportionate to the value of the research that they are likely to produce. Certainly, there is little reason to lower teaching loads in order to encourage scholarly productivity when the research produced is of dubious worth, and even less reason to emphasize quantity rather than quality. Likewise, no administrator should attach greater importance to published work than the true abilities of a faculty seem to warrant. These observations, however, do not justify the conclusion that emphasis on research poses greater dangers to teaching in universities "that lack distinguished research faculties" than in research universities.

I suspect that few "less distinguished" universities—assuming that Bok is referring to universities that would rank from roughly seventy-fifth to 200th in research productivity—sacrifice research for teaching to a greater degree than do research universities. While the research coming out of a great research university may be of higher quality, the cost to teaching may be even greater. Competition for research status in such universities may breed university policies that sacrifice good teaching to research opportunities. This may not be true at Harvard, but

13. Bok, *supra* note 1, at 319.

then again, viewing research universities from a Harvard perspective may involve the use of rose-colored glasses. At many research universities, it is not unusual for professors to teach classes of several hundred students, and then to divide the classes into discussion groups taught by teaching assistants, some of whom may not speak English well. At some research universities, it is common to entrust complete courses to graduate students. A first-semester student may end up with as many as three graduate student teachers.[14] It is also not unusual for a faculty member in upper-level courses to refrain from grading papers. They entrust the chore to graduate students who may not apply a common standard, with the result that a student's grade may depend as much on the teaching assistant who grades the paper as on the tested student's performance. In some institutions, the limited use of research faculty in the core curriculum and the frequent assignment of such faculty to very small and often informal classes reflecting their research interests may make some student unable to obtain the courses necessary to graduate within four years. All of these conditions tend to be as prevalent in some research universities as in universities aspiring to that status.

A significant omission in Bok's recommendations for good teaching is that full-time faculty should offer undergraduate classes. A possible explanation for this omission is that such a rule would be inconsistent with the maximum utilization of the talents of such persons for research and graduate instruction. Bok argues with considerable justification that "[a] vital part of a professor's job in a research university is to expand knowledge and train graduate students."[15] This certainly is a function of the faculty of a research university, but it does not follow necessarily that it should be the role of every professor on the faculty of a research university. Although in most institutions specialization is the order of the day, it is conceivable that, even in a research university, there is a role for someone

14. Statistics are sometimes misleading. A high percentage of total classes may be smaller than 25 or 50 while a significant number of basic classes for first year students may be taught by graduate students or may be large. Thus, at one distinguished university, while more than one-half of undergraduate classes had an enrollment of no more than 25 (out of almost 4,000 courses offered each semester) and three-fourths had no more than 50 students, graduate students taught more than 18 percent of all classes, and, in one semester, 37 classes enrolled more than 300 students. *See* Cunningham, *Where Only the Best Will Do*, ALCALDE, Sept.-Oct. 1990, at 22, 23.

15. Bok, *supra* note 1, at 318.

whose principal forte is good teaching, accompanied by only modest research. Some people might be uncomfortable functioning as "second-class citizens," but others might be happy to spend their time with bright undergraduates and would do a better job educating them than some of the absent researchers might do.

Just as external incentives emphasize research, the internal rewards structure within many universities does so as well. It is not unusual for scientists to be granted teaching loads lighter than humanists during the regular academic year in order to pursue grants from external sources that will compensate them during the summer. In addition, research productivity is the primary key to appointment, promotion, and tenure. Bok suggests that we use careful methods in selecting faculty to ensure "reasonable competence in instruction";[16] that we develop motivation for good teaching (the nature of which he does not describe);[17] and that the administration consider the quality of teaching as well as publication records in making appointments.[18] Bok, however, refuses to abandon scholarship as the dominant factor in judging faculty. He states that the proper remedy to encourage good teaching is not to "promote popular teachers who are undistinguished scholars."[19] Presumably, a "popular teacher" is one who teaches well but has not distinguished himself in research and publication. In addition, there is no suggestion in Bok's discussion that a distinguished researcher who is unpopular because he cannot or does not teach well should not be promoted.

While Bok's discussion of the problem of absent faculty is refreshing, he fails to provide any suggestions for dealing with the problem.[20] Obviously, it does not make much difference how well a faculty member can teach if he or she is not present to do so. Bok is clearly correct in stating that the traditional one-day-off-a-week model is not flexible enough to deal with the complexities that many universities face today. The differences among teaching a class at another university, participating in a learned symposium, arguing a case, and advising a multi-national corporation, make it infeasible to impose the

16. *Id.* at 312.
17. *See id.* at 332.
18. *See id.* at 319.
19. *Id.* at 318.
20. *See id.* at 320-21.

same rules on faculty in business, law, medicine, and arts and sciences. This does not mean, however, that it is "difficult to draft sensible limits on outside activities, let alone devise methods of implementation that are not unsufferably bureaucratic."[21] An institution could implement a rule that permits some absences from the campus each semester for attendance at learned symposia or lectures at other universities but imposes a rebuttable presumption that faculty activities that take place in a non-campus or in a non-government setting, and that generate significant income, are not intellectually inspired. An institution could mandate that faculty who supplement their income from outside sources must submit a copy of a W-2 form annually. In fairness, such a policy would have to be integrated with other policies governing forgiveness of normal teaching loads to permit faculty to obtain grants for summer research. Faculty members are no more or less absent from the classroom if they are away consulting or at home conducting important research.

Turning to Bok's discussion of the need to move away from the research model of excellence, one of the challenges Bok mentions is to persuade fewer institutions to try to replicate research universities.[22] Bok's discussion omits some factors that make it more difficult for universities to refrain from this process. Viewed in one way, Bok's attempt to persuade universities that are not now regarded as elite to abstain from trying to become members of the club could be seen as an attempt to assure that the oligarchy is unchallenged. Nevertheless, there is much sense to Bok's suggestion. Most universities with varying resource bases, faculty quality, applicant pools, and traditions should not rationally attempt to emulate Harvard, a goal beyond their capacity. They should instead attempt to carve out a special niche in which they can perform better than older, larger, richer competitors. Such a suggestion, however, presumably would have hardly been attractive to Duke University or the University of Texas at Austin in the middle 1920s, or to UCLA in the late 1940s. Nor does it have much appeal today to many universities that aspire—reasonably or unreasonably—to a higher level of quality when the sole yardstick of quality is research productivity. Bok recognizes it will be difficult to con-

21. *Id.* at 320.
22. *See id.* at 319 n.39, 332.

vince universities not to compete in a system where rewards are so heavily skewed toward success in research.[23] Institutions are unlikely to adopt such an approach unless it proves to be a model for excellence that offers a credible, attractive alternative to the research institution model.[24] Bok admits that the viability of new models will depend on the incentives and rewards that come in part from the broader society.[25] Thus far, only community colleges and liberal arts colleges have found alternatives to the research model.[26] Unfortunately, he does not suggest how other institutions can develop alternative, credible models.

The difficulties of moving away from the research model of excellence are compounded by the use of research quality as a criterion for ranking undergraduate institutions. In a recent issue, *U.S. News & World Report* emphasized the need for economizing in higher education in the same article in which it rated undergraduate institutions primarily on the basis of such criteria as eminence of faculty and quality of students, both of which cost money to maintain.[27] The same ratings of undergraduate institutions could have been based upon amount and quality of research. I know of no ranking of undergraduate institutions in which size of class or quality of teaching is considered in evaluations, much less time spent by faculty in advising and counseling students. One of the few objective factors used as a basis for evaluation relevant to undergraduate quality is quality of students, as measured by board scores. This is normally assessed on the basis of "input" (for example, SAT scores) with little or no attention to improvement that takes place as a result of the collegiate experience as measured by "output" (for example, a comparison between SATs and GREs, MCATs, LSATs, et cetera). Instead, many such rankings rely upon external evaluations by faculty or presidents, few of whom are qualified to evaluate all of the institutions on the lists submitted to them, and many of whom rank on the basis of the research reputations of the institutions.

Even research productivity and publication, the real bases for

23. *See id.* at 317.
24. *See id.* at 319 n.39.
25. *See id.*
26. *See id.*
27. *See* Sheler, Toch, Morse, Heupler & Linnon, *What's Behind the Rankings*, U.S. NEWS & WORLD REP., Oct. 16, 1989, at 58.

most evaluations, are commonly misunderstood by those ranking undergraduate institutions. Most universities with high levels of research activity have medical centers. The Department of Health and Human Services provides roughly half of federal government-sponsored, university-based research.[28] Not surprisingly, most universities with medical centers have a higher volume of sponsored research than most universities without medical centers. Therefore, a clear relationship is frequently seen between the level of research in the life sciences and the quality of undergraduate education in the rankings that appear in popular periodicals.

It would be easy to ignore such rankings if they did not have a significant impact upon students' choices of where best to study. It could be that many undergraduate students will receive the weakest undergraduate education at some institutions with the highest research productivity because experienced faculty are less likely to teach them, either as a result of commitment to research or because the research standing of the university is based in large part on its medical school faculty who usually do not teach undergraduates. Although this is obviously stretching the point, this argument is no less logical than arguing that students will necessarily receive the best undergraduate education at institutions with the greatest research productivity.

The important point is that a university's decision to forego emphasis on research in an environment where it cannot, by itself, create alternative external standards of excellence, and where none are likely to develop in the foreseeable future, would hinder that institution's recruitment of students, deter many able young faculty from joining its ranks, and significantly impair the self-esteem of existing faculty. In such an environment, seeking "alternative models of excellence," as Bok proposes, is unlikely to be an attractive course of action no matter how wise.

Bok fails to pose an equally challenging question: Should much of the research now conducted in universities be done in federal and state laboratories? As the percentage of American graduate students in our universities declines, one of the major reasons for government-sponsored research in universities

28. *See* L. GLADIEUX & G. LEWIS, THE FEDERAL GOVERNMENT AND HIGHER EDUCATION: TRADITION, TRENDS, STAKES AND ISSUES 12 (1987).

rather than federal laboratories is weakened.[29] This in itself might help move universities away from the research institution model.

Another topic that Bok mentions, though only in passing, is diversity, which has become a major subject of controversy at most institutions. He reports that diversity has flourished at Harvard and that each racial minority is better represented today than it was in the early 1970s.[30] This is a notable accomplishment. Representation, however, is hardly the test. Graduation rates are the test, and retention continues to be a major problem and a proper source of concern in most institutions. Minority participation in higher education, with the exception of Asian-Americans, has declined proportionally since its peak in the 1970s. African-Americans, who constitute seventeen percent of elementary and secondary school enrollments, represent only ten percent of college and university undergraduates, receive only seven percent of bachelor's degrees, and earn four percent of doctoral degrees. Hispanic students constitute nine percent of elementary and secondary school students and five percent of undergraduates. They receive three percent of bachelor's degrees and two percent of doctoral degrees.[31]

Absence of diversity is also a problem in the composition of faculty and staff, thus engendering significant criticism. Today, only about 900 doctorates are awarded to African-Americans annually, a twenty-five percent decrease since 1976.[32] The number of Hispanics earning doctorates has increased since 1980, but Hispanics were the only ethnic group to experience a decline in graduate enrollment between 1986 and 1988.[33] The problems associated with these low numbers are exacerbated by concentration in certain fields. African-Americans and Hispanics, for example, are more likely to specialize in sociology, anthropology, and education, and are less likely to be found in

29. *See* GOVERNMENT-UNIVERSITY-BUSINESS ROUNDTABLE, WHAT RESEARCH STRATEGIES BEST SERVE THE NATIONAL INTEREST IN A PERIOD OF BUDGETARY STRESS 2 (1988).

30. *See* D. BOK, THE PRESIDENT'S REPORT, 1988-89, at 34 (1990).

31. *See* Hauptman & Anderson, *supra* note 8, at 32.

32. *See* Am. Council on Educ., *Facts in Brief: Nine Percent of Doctorates Earned by Minorities*, HIGHER EDUC. & NAT'L AFF., Feb. 1, 1988, at 3.

33. *See* Am. Council on Educ., *Hispanic Educational Attainment Low, ACE Status Report Shows*, HIGHER EDUC. & NAT'L AFF., Jan. 28, 1991, at 3, 8 (citing AM. COUNCIL ON EDUC., NINTH ANNUAL STATUS REPORT ON MINORITIES IN HIGHER EDUCATION (1990)).

science and engineering.[34] In conclusion, the question of diversity cannot be addressed simply by pointing out that minority enrollments have increased.

In a footnote, Bok also discusses briefly the role of athletics in the university. Bok's observation that "academic integrity and big-time college athletics are bound to conflict and can never be wholly reconciled"[35] may well be correct, but it may also be misleading. No one can question that the risk to academics is greater in "big-time" programs that are expected to break even or earn a profit while carrying the costs of Title IX compliance, but an intercollegiate athletic program does not have to be "big-time" to pose challenges to academic integrity. Much depends on what is meant by "academic integrity." Schools that engage in "big-time athletics" annually lose student athletes receiving grants-in-aid to schools that do not award grants-in-aid but that do award "minority" or "diversity" scholarships to applicants. Such students then can be found on football fields or basketball courts rather than in the library. Students in aerobic sports such as swimming may practice several hours every day. While they may meet or surpass minimal academic requirements, they may perform more poorly in their academic work than those who are able to spend time in libraries and laboratories, rather than on tracks and in pools and weight rooms. At some institutions, prospective student athletes may be admitted with admission profiles significantly below those required for applicants who are not sought for intercollegiate competition.

In summary, Bok's arguments and conclusions are well reasoned; however, a number of them are open to criticism. The criteria by which he judges current criticisms of higher education fail to include the need for higher education to address the problems facing society in the future. He also fails to recognize that financial constraints may force many institutions, even research universities, to concentrate on some of the criteria he lists at the expense of others. Bok argues that more emphasis should be placed on good teaching and less on research, yet he fails to acknowledge that the problem is serious at research institutions as well as at "less distinguished" institutions. Faculty unwillingness to offer undergraduate classes, the external and

34. *See* Hauptman & Anderson, *supra* note 8, at 32.
35. Bok, *supra* note 1, at 332 n.61.

internal emphasis on research as the basis for rewards and promotions, and faculty absences because of outside activities all hinder the improvement of undergraduate teaching. In addition, the emphasis and prestige placed upon research, especially in ranking the quality of undergraduate institutions, makes it even more difficult for universities to move away from the research model of excellence. Finally, Bok's discussion of diversity ignores problems that still exist, and he fails to recognize that athletics, whether they be "big-time" or not, can have a detrimental impact on academic integrity.

III. Other Issues

Several issues not discussed by President Bok also deserve mention. First, one should consider the impact of competition from public universities on private institutions. Research subsidies, costs, and tuition levels reflect this competition, which in turn provokes public criticism of private institutions. These issues may have little significance to Harvard, but they are of crucial importance to many other private institutions.

Public institutions have significant cost advantages over their private rivals. For example, a public university is able to build a science facility with state funds without diminishing the university's operating budget. Authorization of the new construction may be a part of a "package deal" by which a donor endows chairs in exchange for the state's construction of facilities. The creation of specialized laboratories in this fashion permits principal investigator-researchers to obtain an advantage in the quest for federal grants because such individuals have been endowed with superior facilities in which to conduct research. The state will be reimbursed for the initial expenditures by the indirect cost recovery on federal grants. Principal investigator-researchers have an additional advantage over private institutions in competing for grants from such agencies as the National Science Foundation (NSF) because the university can recover indirect costs less than those actually incurred, if such costs will ultimately go to the state treasury rather than the university. Private institutions will thus find it increasingly difficult to compete.

Other factors contribute to the disadvantages that private universities face in obtaining funds to build research facilities. Because relatively little money is available from the NSF for

construction of science facilities for any institutions except the largest research universities, many private institutions seek either to borrow money or to obtain contributions to fund these projects. The federal cap on tax-exempt bonds, however, precludes some major private universities from borrowing, and the application of the alternative minimal tax to gifts of appreciated gains[36] significantly limits major gifts for such purposes. The result is that increasing impediments are placed in the paths of private universities seeking to raise money for research, while significant state subsidies are given for the same purpose. Private universities must accordingly rely on tuition, smaller gifts, and endowment income to compete.

The increase in tuitions of private universities and colleges has widened dramatically the gap between the costs of attending private institutions and public institutions. Consequently, an increasing percentage of students are attending public institutions.[37] Additionally, as Bok notes, the number of high school graduates is decreasing, serving to increase further the competition between public and private institutions. A confounding factor, one that is reinforced by poorly informed counselors, is that students and parents tend to dwell on the amount of tuition, not the net cost of attending a private institution after financial aid is considered. The low tuition rates of public universities, with students receiving an across-the-board subsidy without regard to need, serve as the basis for comparison with the "high" tuition of private schools.

A related aspect of this problem is the fact that some large state universities are able to accumulate significant surpluses from the operation of auxiliary enterprises. They can then use the interest generated from these reserves to subsidize such activities as women's athletics. Smaller private institutions do not have such an option. The ultimate impact of this competition on students, as well as the competition for research subsidies, is to create many of the conditions, such as over-emphasis on research and high tuitions, that result in public criticism of private institutions.

A second issue that is not mentioned by Bok but should be discussed is the subject of tenure. The tenure system continues to generate serious criticism. No other profession, besides the

36. *See* 26 U.S.C. § 1201 (1988).
37. *See* Hauptman & Anderson, *supra* note 8, at 20-21.

priesthood, provides lifetime employment on the basis of a decision made about someone who is not yet forty. Anyone who has been in higher education can provide examples of teachers who, for one reason or another, have lost their ability or ambition to teach or research effectively. These people nevertheless have a lifetime job within the academy, in many cases benefitting from annual across-the-board, cost-of-living salary increases. The problem may be exacerbated when compulsory retirement is no longer allowed.[38]

Certainly, there is a need to protect academic freedom. Tenure has, in general, contributed toward achieving this goal. It may not be unreasonable, however, with the end of compulsory retirement at age seventy, to ask whether academic freedom can be achieved by other means. One such method might be for universities to extend initial, short-term contracts, to be followed by more lengthy contracts, which gradually diminish in length as the faculty member reaches advanced age. Periodic review by peers at regular intervals could also be instituted.

An important issue that underlies much of Bok's discussion, but he does not address directly, is the inability of presidents or other senior officials at universities to make changes, such as the ones Bok suggests, to their universities. Efforts to motivate professors to improve their teaching will fall on deaf ears if such improvements do not have any realistic impact on appointment, promotion, tenure, or mobility. As noted earlier, Bok suggests several measures that a university might adopt to improve teaching effectiveness,[39] but there is little reason for faculty to respond to such initiatives unless there is some potential payoff. A president or dean does not determine whether a faculty member will receive tenure or promotion. On occasion, he or she may be able to block a decision to grant tenure or to promote an individual, but I know of few circumstances when a president has been so courageous as to insist that tenure be awarded over the vote of a department. Thus, the level of motivation to sacrifice research production in the interest of improved teaching is likely to be low so long as young professors—except for those few who have an inner urge to do everything well without regard to reward—believe that their

38. *See* 29 U.S.C. § 631 (1988).

39. *See* Bok, *supra* note 1, at 318-19.

departments accord more weight to research excellence than to teaching capability.

The power of departments emphasizes the limited capacity of the president, provost, and deans to manage an academic institution. Universities have become complex. Authority is shared. Harvard, for example, has thousands of faculty members, students, and staff, and a $5 billion endowment.[40] In any comparable business enterprise, the chief executive officer would be able to take the steps deemed appropriate to manage the institution effectively and to implement those decisions through subordinates, subject to policies established by a board of trustees. This is not the case in an educational institution. I have, on occasion, facetiously commented that the difference between a CEO of an educational institution and a CEO in the business sector is that in the business sector, a direct order and pointed suggestions are taken seriously, while at a university, a direct order is viewed as an agenda for debate, and pointed suggestions may be regarded as the desultory ramblings of a madman.

A major challenge for the future may be whether we can manage our complex institutions of higher education without rethinking the authority of those responsible for their operation. It may be possible to maintain the current authority structure in an institution with $5 billion in endowment; it may be impossible in an institution with a lower level of resources and more intense competition from the public sector.

Two fundamental changes that are occurring in higher education with relatively low visibility may become the subjects of more vocal criticism. The first is the financing of higher education by students through the assumption of large debts, related in some institutions to the higher levels of tuition. In recent years, federally financed student loans have become the most common form of financial assistance.[41] No longer does a student routinely finance a college education by working in the summer, holding a part-time job during the school year, and receiving support from parents' savings, supplemented occasionally by a modest scholarship or loan from the university. Obtaining a college education to many has now become much more like purchasing a home—it is an asset that can be ac-

40. *See.* D. BOK, *supra* note 30, at 37.
41. *See* L. GLADIEUX & G. LEWIS, *supra* note 28, at 8.

quired only by borrowing, with the expectation that it will be paid for in depreciated dollars over the productive life of the borrower. Meanwhile, much rhetoric is spent in the higher education field on the need for additional scholarships and the need to limit the level of loan dependency. In short, heavy debt is becoming the rule rather than the exception.

In this regard, more and more Americans are becoming concerned not only about student-loan defaults, but more importantly, about the impact of large student loans on the mobility of the next generation. The problem may be less significant for a university such as Harvard than for other institutions where graduates facing fewer job prospects may be forced to make significant sacrifices to repay their loans. Even at Harvard, heavy student borrowing may affect the ability or willingness of students to enter the public sector or to accept lower-paying jobs that they prefer. I do not suggest that loan programs are bad. Federal loan programs make education possible for many who would not otherwise have the opportunity, and loans greatly facilitate attendance at higher-cost, prestigious schools that may open doors to promising careers. Nevertheless, the risks of over-borrowing must be explained to students, and the value of the program must be explained to the public, which normally hears nothing except media coverage of defaults.

The second ongoing change that must be addressed relates to the relative equality of compensation among faculty.[42] At one time, faculty received compensation that was determined primarily by seniority rather than by field of expertise, with the exception of physicians and lawyers, who received higher rates of compensation. Business faculty were then added to the preferred list, and now faculty in computer science, engineering, and economics provide another tier. To these must be added the scientists who enhance their basic pay with external summer grants and the external consulting undertaken by many, particularly in the professional schools. At the low end of the totem pole remain the humanists for whom there are few government grants and fewer opportunities for external consulting. At the same time, universities repeatedly speak to the importance of the liberal arts. Universities cannot, of course, be oblivious to market forces. This problem must be faced if uni-

42. *See Universities Awarded Record Number of Doctorates Last Year; Foreign Students Thought to Account for Much of the Increase*, Chron. Higher Educ., Apr. 25, 1990, at 1, col. 2.

versities truly mean what they say about the importance of the humanities both in understanding the ideas and cultures that have shaped our world and in equipping students with the perspectives and abilities they will need to shape their world.

IV. Conclusion

Everyone in higher education should be indebted to Derek Bok for answering the criticisms voiced by colleagues, by the media, and by the government during recent years. There is much that is wrong in higher education, but there is also much that is right. Certainly none of us will meet our responsibilities to the public if we sit on the sideline while Chicken Little screams that the sky is falling.