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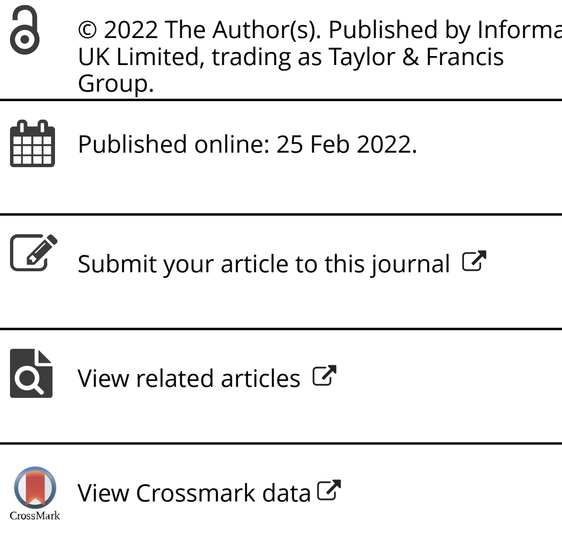

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On the possibility of a public regime in higher education: rethinking normative principles and policy frameworks

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ABSTRACT

The process of reversing a neoliberal regime in highly marketised higher education systems entails the discussion of such a regime's normative principles and policy frameworks. Little has been said about what decommodification would involve or the implications of such a project for the constitution of a public regime in higher education. Two principles are discussed in this paper to delve into these concerns in detail: institutional diversity and autonomy. In addition, the role of quality policies is considered. In this respect, I critically analyse how the neoliberal regime in higher education has adopted these normative principles and policies. I claim that this regime has defined the content of the boundaries of such elements through a particular understanding of objectivity, neutrality and impartiality. Then, I discuss the plausibility of a public regime in higher education by rethinking these categories, which entails the reconsideration of the relationship between power, knowledge and subjectivity.

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1. Introduction: the limits of institutional diversity and autonomy in higher education

Over the last decades several countries have, in one way or another, introduced market-driven policies in higher education (HE). The most paradigmatic examples are the United States, the United Kingdom, South Africa, Australia, Colombia and Chile, among others. The implementation of these policies has had enormous impact on how normative principles guiding HE have been used and enacted by policymakers, academics and students alike. As a result of the negative consequences of marketisation in HE, e.g., student indebtedness and lack of quality (Marginson, 2013), some countries have attempted to reverse marketisation, or reduce its weight, by implementing new welfare state policies, e.g., free education policies in South Africa, Chile and Germany, among others (De Gayardon, 2018). Beyond the practicality of these efforts, little has been said about what decommodification involves and what a public regime should look like. Reflecting on these concerns, in this conceptual paper, I consider the possibility of a public regime by delving into the limits of normative principles, like institutional diversity and autonomy, and policy frameworks, like quality assurance policies, all of which may help us to further understand the implications of the decommodification project of HE systems.

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Although institutional diversity and autonomy are distinguishable, they are nevertheless interconnected. While the former aims to deal with the expansion of HE through the promotion of multiple university missions, degree programs, modalities of teaching and learning and expected outcomes (Altbach et al., 2017), the latter seeks to ensure that these projects and practices are developed without external interference (Lemaitre, 2019). Yet, it has been acknowledged that both institutional diversity and autonomy have certain limits. In general, quality assurance policies have been used as the policy framework that defines the limits of these principles; they are deemed value-neutral policies able to set up and evaluate objective criteria and impartial evaluations required to ensure a virtuous diversity and autonomy.

However, this view has been widely criticised, as it turns the principles ruling the system into an empty shell that can be easily used and reactivated by the market agenda and, consequently, by particular interests (Tannock, 2017). Following this assumption, higher education institutions (HEIs) do not need to justify their actions and decisions; instead, they merely have to comply with a set of objective criteria – or quality standards – that enable them to be considered 'valuable' educational projects, without any political justification. The problem with this approach is that it makes political deliberation impossible and, thereby, diversity and autonomy remain unchanged. In that context, it seems to be crucial to better understand the boundaries and content of institutional diversity and autonomy under a neoliberal regime, that is, to explore the ways in which these principles can potentially become a threat to the system. This exploration seems to be relevant because higher education institutions are part of a broader system of values beyond purely education.

Therefore, in this conceptual paper, I seek to contribute to explorations of decommodification and what a truly *public* higher education should ideally look like (Tannock, 2017), as a plausible alternative to the current marketised model. Although the idea of a public regime has been widely debated (Atria et al., 2013), especially in the higher education sector (Lemaitre and Durán Del Fierro, 2013), the concept is still underdeveloped. The discussion has primarily focused on the defence of the public university (Giroux, 2014; Tannock, 2017) and how higher education contributes to the public good (Carpentier & Courtois, 2020; Marginson, 2011), as opposed to a privatised vision of higher education, rather to rethink this area as a *regime of truth* that governs us, that is, as a site that shapes ways of thinking and social practices by means of the production and articulation of power, knowledge and multiple subjectivities (Ball, 1993; Foucault, 2007a). The central argument of this paper is that in order for a public regime to be properly enacted we have to rethink the category of objectivity, which is the one that sets the limits of normative principles and policy frameworks in HE.

The possibility of a public regime through the critique and reconsideration of the category of objectivity implies the analysis of three processes which organise the sections of this paper. To begin, I briefly describe what a neoliberal regime in higher education would look like and how objectivity has been used to reproduce it. In addition, I analyse the assemblage of the market agenda into normative principles and policy frameworks in HE. Furthermore, I consider the plausibility of a public regime through the reconfiguration of objectivity and its relationship with normative principles and policy frameworks.

2. The neoliberal regime in higher education: the market agenda

In general terms, a *regime* can be seen as the grounds on which a specific group of principles, concepts and practices becomes reasonable for a particular era (Foucault, 2007a). A regime allows us to think as we think, to speak as we speak and to act as we act; that is, it is the condition of the possibility of thought in a given culture at a given time (Ball, 2020). The focus, then, becomes the way in which we speak and behave through values and codes that constitute us, not only discursively, but also ontologically.

The neoliberal regime in HE consists of distinctive principles, policies and practices, all of which are permeated by competition (Naidoo & Williams, 2015). Since the 1980s, market and quasi-market reforms worldwide have been introduced to replace public subsidies with private spending. Instead of direct grants to universities, the market agenda has promoted the implementation of competitive funds and means-tested grants; instead of the free provision of education to students and families, tuition fees have been introduced (Johnstone & Marcucci, 2010). Similarly, the market agenda includes privatisation, the precarisation of academic labour and structural racism (Newfield, 2021). Today, although some countries still have strong public systems of HE and policy frameworks traditionally linked to welfare states, the majority have adopted a mixture of policies like scholarships, student loan schemes (deferred tuition fees), free education and competitive funds to respond to marketisation (Dobbins & Knill, 2014; Garritzmann, 2016). This shows that regardless of the HE system analysed, the neoliberal agenda has been adopted either partially or completely through a combination of market policies and state regulations. Yet, beyond these differences, competition, grasped as market equilibrium (Gane, 2020), remains the basis on which all these systems operate (Schulze-Cleven, 2020).

Thus, for instance, institutional diversity and autonomy have been reactivated differently to be used for competitive purposes: whereas institutional diversity is stimulated to have more competitors and, hence, increase efficiency, quality and innovation (Toutkoushian & Paulsen, 2016), autonomy is required to make the 'invisible hand' possible – i.e. exchange value without state intervention. As a result, today two forms of competition have arisen within HE systems: quantitative competition, which is competition for students, funds and professors, and qualitative competition, which is competition for quality using different classifications and categories, e.g., national and global rankings (Musselin, 2018).

In addition, the market agenda is not possible without the enactment of another category equally relevant for competition: objectivity. Under the neoliberal regime, being objective and making objective judgements have become essential parts of the policy framework in HE. In general terms, these conditions imply the suppression of any form of subjectivity and the reliance on epistemic virtues in the decision-making process (Daston & Galison, 2007). In this regard, quality policies seem to be a way to consolidate these conditions, since they consider specific method of data collection and analysis together with epistemic virtues like validity, consistency and reproducibility, which permit the suppression of political conflicts during the evaluative process – accreditation or audits. To put it in another way, the market needs to impose seemingly objective and neutral regulations in order to prevent political disagreements that might give rise to new normative principles and policy frameworks within HE systems.

Therefore, it is possible to assert that the neoliberal regime, grasped as an episteme that make all these principles and policies acceptable and somehow inevitable, seeks to reproduce itself by using both market policies and state regulations (Ball, 2012;

Marginson, 2011). Following Foucault (2010), neoliberalism in HE is irreducible to free market; instead, it is the combination of market and state policies, now incarnated by 'third way policies' that bring about modes of governmentality that shape institutional practices and subjectivities at multiple levels, e.g., knowledge production has been morphed from 'thought-time' into 'money-time' (Noonan, 2015).

3. Normative principles and policy frameworks: assembling the neoliberal agenda into higher education

The aim of this section is to discuss the way HE systems have been commodified by using and activating two different but complementary normative principles: institutional diversity and autonomy. In other words, I explore the way in which the content of the boundary of these principles has been determined by the neoliberal agenda in HE, particularly through quality assurance policies.

3.1 Institutional diversity in higher education

It is said that HE systems, which are supposedly regulated by rational, proportional, lawful and non-discriminatory rules, consist of multiple educational projects, purposes, missions, values and functions (Brennan et al., 2016; Van Vught, 2009). This is what has been called 'institutional diversity' or the process of 'differentiation' within HE systems. In this sense, it is said that institutional diversity contributes to increasing the learning opportunities of students from more diverse social backgrounds (Brennan & Naidoo, 2008; Van Vught, 2009) and to improving the quality of the system through timely responses to the multiple demands coming from the market, the state, local communities and families (Lemaitre, 2019; Van Vught, 2009). Hence, it is argued that institutional diversity helps to increase efficiency, equity, inclusion and innovation in HE (Arce-Trigatti & Anderson, 2020).

The literature highlights two aspects of institutional diversity. One of these is vertical differentiation: this includes the creation of a range of postsecondary institutions – public or private – such as universities, community colleges and polytechnic institutions (Van Vught, 2009). The other is horizontal differentiation: this includes the proliferation of a variety of institutional missions and projects, such as teaching-oriented and research-intensive universities with varied reputations, prestige, programmes, courses and fields of study (Teichler, 2017). However, the literature also acknowledges some negative aspects of the expansion and institutional differentiation of HE systems. Thus, rather than an equal differentiation, what seems to be happening is the creation of distinctive clusters of higher and lower status universities (Boliver, 2015), that is, the consolidation of tiered hierarchies of institutions. This makes social stratification and social class inequalities a persistent phenomenon, despite the introduction of quality assurance and inclusion policies (Boliver, 2011; Bowl et al., 2018; Marginson, 2016; McCowan, 2016).

With these considerations in mind, there seem to be two positions concerning the limits of institutional diversity in HE. One position holds that HE systems should deal with the needs of students, families, economy and communities without state intervention. Here, the limit is constituted by the autonomy of institutions and their communities, that is, by a set of self-instituted rules of conduct and norms. The other position assumes the importance of institutional diversity, but at the same time, encourages the definition of

certain limits to protect the system and society. This viewpoint implies the articulation of institutional autonomy and public regulations among HEIs in such a way that institutional diversity becomes virtuous. As I have underlined earlier, quality assurance policies seem to have served as the primary regulation for establishing this harmony.

In this context, the articulation of institutional diversity and public regulations in the form of quality policies brings up the following question: in what way is the limit of institutional diversity defined by quality assurance policies? Simply put, these policies aim to evaluate the degree to which HEIs and their programs comply with a set of quality standards defined by external agencies in accordance with international experience (good practices) and national evidence (Salazar & Leihy, 2014). Data collection processes and multilevel analyses are undertaken to decide whether the institution or the program meet these requirements. Institutional diversity, then, becomes reasonable on the basis of quality procedures linked to a form of scientific knowledge (Anderson, 2006; Stehr, 2003). Thereby, it is possible to say that the limits of institutional diversity – either vertical or horizontal – rest upon the definition of these standards, which become a way to make all HEIs comparable, despite their institutional diversity. Here the limit is no longer defined exclusively by the autonomy of the institution but by technical agreements between the academic community and the state. Hence, what is at stake is the constitution of a value-neutral boundary based on standards, evaluations and classifications oriented to ensure the quality of diversity.

However, it has been questioned the way quality policies set the limits of institutional diversity (Morley, 2004). Given that the use of standards and labels makes all HEIs comparable, some relevant differences tend to disappear. For instance, quality policies reinforce a standardised form of institutional organisation in management, teaching and research. This is what has been called academic and vocational drift, that is, the process of convergence of HEIs' practices (Codling & Meek, 2006; Neave, 1979). This entails the reduction of diversity and makes it difficult for some alternative university projects to survive (Fierro and TumanoffI, 2022). Similarly, the difference between public and private institutions seems to be dissolved, making public ones function as private corporations, despite their historical and cultural features.

3.2. *Institutional autonomy as negative freedom in higher education*

Neoliberalism depends, to a large extent, on the idea of freedom. Freedom is usually defined in two ways: negative and positive freedom (Berlin, 2002). The former has been commonly called the 'principle of non-interference,' since individuals are free when they are able to evade interventions. Thus, what constitutes negative freedom is an absence of external control. Positive freedom, on the contrary, is the possibility of taking control of one's life and projects. By doing so, individual subjects master themselves by using and enacting moral principles that constitute a form of life.

With this in mind, one can assert that the institutional autonomy promoted by HEIs is similar to negative freedom under the neoliberal regime. HEIs, even state-owned ones, defend their independent capacity to define their missions, research areas, fields of study and pedagogical tools far beyond external interventions. However, this autonomy is never absolute, since, over the last decades, national HE systems have introduced a series of laws and policies to regulate marketisation (Bernasconi, 2015). In this regard,

HEIs' challenge today is to find the balance between autonomy, public regulation and the necessities of the market, e.g., industry, or in other words, between HE grasped as 'an end in itself [. . .] or that serves economic and/or political ends' (Gale, 2021, p. 295).

To address this situation, we need to understand how public and private organisations relate to regulations in general. While the former do only what is allowed by law, the latter do what they want, except what is forbidden by law. In that sense, it is possible to claim that all HEIs, even the public ones, behave as private organisations, as they can define at will their educational projects but, at the same time, they must follow the rules established by the system. The prevalence of this freedom is crucial, since the foremost aim of HEIs is to produce and disseminate knowledge, which requires a wider idea of autonomy in comparison to public organisations (Godin & Gingras, 2000).

Therefore, what seem to be crucial to understand are the limits of regulations in relation to the negative autonomy of HEIs. According to liberal thinkers, impartiality is the way to consolidate autonomy in democracy (Barry, 1995). That is to say, laws dictated by the state cannot prioritise any particular university over another and, at the same time, they cannot interfere with universities' institutional missions[1] (Deneen, 2018). Although some countries have introduced quality policies to regulate private institutions only, the majority have created regulations for all institutions to ensure impartiality. Similarly, institutions are evaluated during quality accreditations or audits according to their self-instituted missions, without interfering with their educational projects (*fitness for purpose*). Thus, institutional autonomy (negative freedom) is ensured by laws and policies organised around impartiality, fairness and neutrality.

3.3. The growing tensions within policy frameworks: the role of quality assurance policies

So far, I have analysed quality in relation to institutional diversity and autonomy. In this section, I will go into the tensions that quality assurance policies bring to policy frameworks in HE in more detail.

Quality has become a tricky category within HE systems. Notably, it is difficult to find a clear and stark definition of what quality really is (Harvey & Green, 1993). Yet this seems to be the norm in HE systems, where principles are 'frequently used without clear and agreed definition' (Brennan & Naidoo, 2008, p. 287). This political vagueness seems not to be a problem for the market agenda, because what is at stake in quality is merely compliance with objective standards and a commitment to improvement.

In this sense, the lack of definition of what quality is helps the market to introduce apparently neutral policies that not only regulate institutional policies, norms and procedures, but also make up everyday institutional and individual practices (Burrows, 2012). Thereby, although quality does not have an agreed definition, it has become a form of moral code that makes all practices (of competition) plausible and reasonable within HE systems. Thereby, quality policies are effective precisely because of their vagueness, elusiveness, neutrality and impartiality (Atria, 2019). In other words, for a moral code to be effective, a detailed definition of the goal does not seem to be required, but simply the consolidation of (an empty) discourse. Quality, then, can be seen as the absence/presence (thanks to objectivity, neutrality and impartiality) which makes the neoliberal subjectivity within HE possible.

However, quality fulfils another function equally important to the consolidation of the neoliberal regime in HE: it makes a diverse group of institutions comparable; that is, it makes the commensurability of all institutions and programs in HE real. Or, more precisely, quality becomes the 'general equivalent' (Marx, 1981) that makes exchange value possible, that is, it is the measure by which all commodities (i.e. knowledge and credentials) are interchanged, acting like money in the market of good and services. Thus, from the perspective of quality, it becomes irrelevant whether an institution is a public or private university, or whether an individual studies or works in a public or private institution. Quality recodifies the experience of both students and academics, which now all pertains to the market logic (Orellana et al., 2017). What is relevant, then, is the compliance of a set of standards to make exchange value possible, regardless of the type of institution prevalent in a given HE system. In this regard, it seems that quality leads the system to the commodification of all their practices (Morley, 2003), or, in other words, to the disappearance of the institutional aura.

With this in mind, one could argue that quality is neither the root of the virtuosity of HE systems, nor the political body of autonomy and diversity. Instead, it seems to be a legitimate way of excluding alternative institutional projects, of denying access to low-performing students and of dismissing other types of knowledge beyond the scientific one. As Marx once said regarding commodities, quality under a neoliberal regime appears to be constituted by 'metaphysical subtleties and theological niceties' (Marx, 1981, p. 24). Simply put, quality makes certain ways of thinking and practices plausible and, at the same time, makes all institutions comparable. This twofold dimension constitutes the basis on which the neoliberal regime in HE has been consolidated, that is, the precondition of the possibility of its normative principles and policy frameworks.

To sum up, in this section, I explored the relationship between normative principles – institutional diversity and autonomy – and quality policies. In particular, I explored how quality sets the limits of normative principles through a range of categories (objectivity, neutrality and impartiality), mechanisms and procedures. Following this, I highlighted two aspects of quality policies: quality as a moral code and general equivalent of all commodities in HE. Once quality and normative principles are understood in this way, it becomes possible to delve into the possibility of reversing (decommodifying) the neoliberal regime in HE.

4. The possibility of a public regime in higher education

The point of departure is to define what a public regime should look like. Following Morton's (2018) line of thought, the public is not the locus where rationality is deployed but where opaque, anarchic, contradictory, controversial and rhizomatic practices take place (Deleuze & Guattari, 1983). This presupposition leads us to rethink the category of objectivity, upon which the neoliberal regime has developed its policies. That is to say, by understanding a public space in this manner, objectivity seems to face a challenge that is necessary to unravel. Or, in other words, if we consider objectivity as the suppression of subjectivity, a public space appears to be the impossibility of objectivity. Yet, rather than dismissing the category, the crucial point is to rethink objectivity, or more precisely, to

link objectivity with political conflict (Steinberger, 2015). Thereby, the aim of this section is to discuss the plausibility of a public regime by exploring the relationship between conflict and objectivity; I would like to call this articulation *non-neutral objectivity*, which becomes the precondition of the possibility of both normative principles and policy frameworks within a public regime in HE.

4.1. Non-neutral objectivity and the constitution of the limits of normative principles and policy frameworks in HE

It is worth remembering that neo-Kantianism reformulated the notion of objectivity both in the social and natural sciences by questioning the presence of the knower during knowledge production[2] – objectivity as 'blind sight' (Daston & Galison, 2007; Rose, 1995). This presupposition has been used partially or completely by academics, policy-makers and politicians, leading to the consolidation of the evidence-based policy and data-driven movement within the modern political state (Marceta, 2020). Likewise, Guston (1993) argued that between science and democracy exist an essential tension because when the rationality of scientific inquiry (objectivity) is called into question by politics one run the risk to be excluded from political debate. Thus, objectivity as 'blind sight' or as an 'evidence-based conception'[3] (Steinberger, 2015) has helped governments to prioritise consensus over political disagreements.

However, it is possible to use the transcendental idea of objectivity formulated by Kant and Hegel to question this position and rethink normative principles and policy frameworks. One crucial idea is that objectivity and subjectivity are mutually dependent; that is, objectivity is not the same as truth and certainty, and subjectivity is not merely a set of beliefs. With this in mind, the question about what makes our moral judgements – or normative principles, in this case – objectively valid becomes relevant once again. The simple answer is that what is considered objectively valid derives from a subjectively agreed definition in a given culture at a given time. That is to say, what confers objective validity on the limits of normative principles in HE is society (or a political community), which turns out to be a 'transcendental objectivity' with a constitutive moral force. Yet the basis of the validity of normative principles cannot be simply decided in general terms – society as an *a priori* category – but it also requires the constitution of historically rooted subjective meanings and practices of critique and justifications (Boltanski & Thévenot, 2006). The conflation of society as a moral force and a constellation of meanings and critique is what I would like to call *non-neutral objectivity*; that is, the precondition of the possibility of normative principles and policy frameworks in HE.

What does it mean to say that non-neutral objectivity confers validity on normative principles and policy frameworks in a public regime? It means that what is at play in a public regime is the constitution of a social subject, or more precisely, of a political community. Unlike neoliberal regimes, which prioritise individual subjectivities and the justification of policies in terms of quality priorities and goals of the market liberal paradigm (Van 't Klooster, 2021), what makes a political community a community in a public regime is the capacity to legitimise a given regime of truth, its constitutive moral force. This is crucial because HE systems cannot consist of normative principles and policy frameworks merely defined by good practices and evidence-based policy, as 'one

set of laws can be implemented in opposite ways depending on *the sense of the common* in which they are framed' (Rancière, 2010, p. 54, emphasis added by the author). To put it in another way, non-neutral objectivity defines the content and limits of normative principles and policy frameworks not from the will of an individual institution or community, like the scientific community, but from a political community constituted by multiple practices internally mediated. Thereby, this validity is not merely postulated, exterior and formal but historically and socially situated.

Following this line of thought, what makes normative principles and policy frameworks possible within a public regime is conflictivity (Hegel, 2013; Pinkard, 2002); that is, contestation, opposition, disagreement, division, debate, dispute and dissent (Steinberger, 2015). Using Foucault's terminology, conflictivity can be seen as the embodiment of a 'politics of desubjugation,' that is, the active critique and refusal of power relations derived from a given regime of truth (Foucault, 2007b). These practices of critique have the capacity to create new collective subjects (Lorenzini & Tazzioli, 2020), which entail the permanent conflictivity of a public regime. Today in HE, this political community is the one that emerges from historical social conflicts associated with student indebtedness, academic precariousness, structural racism, gender inequalities, among other practices of critique; that is, a political community constituted by social relations of critique rather than a collection of individual subjects or groups. Hence, what confers legitimation on normative principles and policy frameworks is the political community organised around conflictivity, which takes the form of a politics of desubjugation and practices of critique that at once bring about new collective subjects.

In addition, this political community has the capacity to establish collectively self-instituted laws (Pinkard, 2002). Nevertheless, these laws do not come from what has been called political consensus but from the endless actualisation of political disagreements that cannot be merely considered as part of a problem-solving approach. Thus, the self-instituted law is the 'supplementary, or grounding, power that at once legitimises and de-legitimises every set of institution' (Rancière, 2010, p. 52). Yet, it has nothing to do with finding a consensus or a form of universality but, rather, understanding that this ground is tied to a never-ending political conflict. Put bluntly, the point is not merely to find a consensus but to erect a regime under which we can mediate those conflicts. For instance, the limits of institutional autonomy depend on what is considered autonomy in a given culture at a given time, and this definition is essentially political, not technical, and hence, it depends on social conflicts and existing practices of critique. Thereby, the constitution of a public regime does not rests exclusively upon an epistemological dispute over who provides the most reliable evidence (the truth) but a historical–ontological dispute over which collective subjectivity prevails (Atria, 2019; Lorenzini & Tazzioli, 2020).

In this sense, whereas the neoliberal regime tries to reduce or eliminate the conflict by resorting to scientific knowledge, a public regime mediates conflictivity by making real the predominance of the political community as the locus in which conflicts are mutually recognised and politically articulated. That is, whereas the neoliberal regime seeks consensus by appealing to public reason (Bellolio, 2019), a public regime rests upon political conflicts as something ontologically constituted. Thus, a public regime

becomes the realm that enables the existence of a body of knowledge, modes of thought and ethical relations and practices that tend continuously to conflict but also to the self-transformation of collective subjects.

In this respect, the content and limits of normative principles lie in the consideration of what is good in a given culture at a given time. For instance, the idea of institutional diversity is no longer defined by binary oppositions like diversity/homogeneity but as an internal conflict of what kind of diversity fits the purposes of the system. This means neither the prevailing of one term over another nor the disappearance of both but, rather, to accept that the limits between diversity and homogeneity change on the basis of what is defined by a particular political community. Therefore, the essence of this discussion is not based on opposing conceptions of quality in HE – this *or* the other – but in understanding them as aspects of the same problem – this *and* the other. In this regard, a public regime can be deemed the locus within which these binary oppositions are mediated in a way that both prevail, but differently.

As I highlighted above, quality is an example of how objectivity, neutrality and impartiality are enacted in HE: institutions are considered of quality when they comply with a set of standards objectively valid through neutral and impartial evaluations. Likewise, a research project is often considered good quality when it has adequately employed scientific objectivity; that is, when its analysis is valid, accurate, replicable and so forth. Yet, what happens to research when, for instance, gender perspective is introduced into knowledge production? It seems that the neoliberal regime has not the capacity to mediate this conflict through quality evaluations. On the contrary, these evaluations simply tend to capture – or exclude – all new perspectives so that the hegemony of the neoliberal regime remains untouched. So, the question is how can HE systems permit, mediate and articulate the emergence of new perspectives rooted in historical social conflicts? How can these systems permit the introduction of gender perspective into knowledge production in a way such that it is not reduced merely to quantitative measures – like income gap and productivity – but also enables the transformation of research epistemology (Haraway, 1988)? A public regime seems to open the possibility of rethinking how these conflicting situations are processed and mediated.

4.2. Rethinking institutional diversity and autonomy in HE

I would like now to move on towards the discussion about what institutional diversity and autonomy should look like under a public regime. To do this, it is necessary to rethink the idea of freedom/autonomy promoted by the neoliberal regime. In doing so, I consider three points put forward by Hegel. To begin with, freedom is an ontological condition[4]; that is, it is not something individuals might or might not have. An agent is not free by becoming free, but by realising its freedom. In addition, being an agent implies that the responsibility of one's actions are imputable to oneself. Furthermore, realising one's freedom depends on the social conditions under which one exercises

freedom (Pinkard, 2002). In other words, by freedom, Hegel alluded to the following paradox: an agent can do whatever she wants but this does not mean that she can do anything.

The point in this paradox is that the limit of this freedom lies in the constitution of a historical and social subject, meaning that the law – i.e. what determines the freedom of human beings – does not derive from outside an individual subject or from abstract elucubrations, but from the subject itself. Yet the subject is now considered as a political community, hence, freedom must be recognised by the others to be entitled on the agent. Likewise, what characterises this freedom is the pursuit of goals and ends (teleology), all of which determine its action. These goals and ends do not necessarily depend on what is right or wrong in a given culture but, rather, on what is good, which entails the prevalence of the common good (normativity) over the right in its neutral sense (impartiality; Rawls, 1988; Sandel, 2020).

With these considerations in mind, it is possible to assert that institutional autonomy requires the recognition of another institution; that is, institutional agency is empty until it is given content from another institution. The boundary of this autonomy is, then, internally produced by a political community, while the possibility of change depends on the acknowledgment that this boundary has been historically instituted (Hegel, 2013; Pinkard, 2002). Thus, the only possibility for institutions – and individuals – to emancipate themselves is through the special qualities of a political community which confers validity on the content and limits of institutional autonomy.

The problem with this approach, following the arguments of the supporters of neoliberal regime in HE, is that autonomy understood in this way becomes a threat to institutional diversity, quality, efficiency and innovation (Brunner, 2011). That is, the promotion of this sort of autonomy would entail the reduction of the diversity of educational projects and, hence, the deprivation of the quality of the system (Brunner & Uribe, 2007).

However, I argue that within a public regime, both autonomy and diversity are realised by the mutual recognition that self-instituted principles are authoritative; both autonomy and diversity are always relational. Simply put, institutional autonomy consists of the endless actualisation of self-instituted public obligations, while institutional diversity implies the definition of institutional missions – governance, research, teaching and public engagement – according to the ends of a given HE system. The realisation of these obligations and ends is always in relation to another institution; that is to say, these elements are empty until the other institutions recognise their validity.

In this regard, these obligations and ends are decided by a political community characterised – as I said – by conflictivity; that is, by the endless emergence of practices of critique. Therefore, the question is not 'who' decides these obligations and ends but 'under what conditions' these decisions can be taken. If the social conflict underpinning these obligations and ends is recognised, only then can a set of processes be defined. This implicates, among other things, that the constitution of a public regime entails the prevalence of a conflicting political community over technocracy; or, in other words, technocracy must serve as the mediator of the conflictivity embedded in a political community, and not the other way around. The decommodification of HE systems lies, to a great degree, in this reversal.

Concluding remarks

In this conceptual paper, I have argued that the possibility of a public regime depends, first of all, on understanding how the category of objectivity sets the limits of normative principles and policy frameworks under a neoliberal regime and how it can be rethought in light of political conflicts. By doing so, I offered a critical account of the way in which the neoliberal agenda has been introduced in HE, especially how normative principles, such as institutional diversity and autonomy, and policy frameworks, such as quality policies, have been (re)shaped in a particular way.

In addition to competition, I have claimed that the neoliberal agenda has been driven by the policy enactment of objectivity, neutrality and impartiality – three categories that make neoliberalism possible through the conflation of the market and the state. Thus, I have underscored that quality assurance policies have been used as the policy framework that fits into neoliberalism. This implies the definition of objective standards that bear no trace of political influence; that is, standards unmarked by prejudice, judgment or striving. Likewise, these standards depend on the establishment of neutral and impartial evaluative processes of HEIs. Moreover, I have pointed out two aspects of quality policies: quality as a moral code and as a general equivalent of all the commodities in HE. This exploration has helped me to further understand the conditions for the decommodification of HE systems.

In that context, the possibility of a public regime lies in rethinking the category of objectivity. As a result, I have proposed the idea of non-neutral objectivity as the precondition of the possibility of normative principles and policy frameworks within a public regime in HE. This objectivity confers validity on these principles and policies, as it is the articulation of a moral force (society) and a constellation of subjective meanings and practices of critique. Therefore, what is at stake is the constitution of a political community able to provide legitimation to normative principle and policy frameworks. I have claimed that what makes this political community possible is conflictivity; that is, historical–ontological conflicts which are socially situated. This form of political community represents the transition from an epistemological dispute over what is true or good evidence to an historical–ontological dispute over what social subjectivity prevails.

These presuppositions have multiple policy implications. The most important one is the priority of conflictivity over social order, or, in other words, political community over technocracy. This does not mean the disappearance of the latter, but its subordination to a given political community. Thereby, the limits of normative principles are no longer defined by empty and abstract categories that seek universal validity but by the *telos* – obligations and ends – implicated in a political community.

Notes

1. Certainly, there are some exceptions. For example, the promotion of equality of opportunities in education means that it is possible to provide a benefit to a particular group of students according to their socioeconomic background
2. This reformulation changed the scope of a general question within science: from the question about what makes our moral and political judgment objectively valid to the question about the nature of objectivity and validity (Rose, 1995). This shift brought

about a series of attitudes toward the way we can have access to the 'truth.' Thus, objectivity has been enacted differently according to the historical period: from 'truth-to-nature' and 'mechanical objectivity' to 'trained judgment' (Daston & Galison, 2007)

3. According to Steinberger, 'an evidence-based standpoint is an objective standpoint – and the exclusive source of objective statements – because it is paradigmatically a standpoint of neutrality, impartiality or disinterestedness' (Steinberger, 2015, p. 14)
4. Following Hegel's approach, ontology does not denote the existence of a set of substances or essences (or things-in-itself) by which the elements of social reality relate to each other. By contrast, ontology consists of the primacy of relations and processes over substance, being the former the result of a plethora of mutual activities of social recognition (Renault, 2016)

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