

# **A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa**

**F Bothma  
10083510**

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**Promoter: Prof. J.P. Rossouw**

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It all starts here <sup>™</sup>





## SOLEMN DECLARATION

I, Franciska Bothma, the undersigned, hereby declare that the work contained in this thesis entitled

**A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa**

is my own original work and that I have not previously in its entirety or in part, submitted it at any university for a degree.

Signature:



Signed at POTCHEFSTROOM on this 30<sup>th</sup> day of April 2015.

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*On one side of accountability is courage; on the other is freedom*

Jean Hamilton-Fford

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*A body of men holding themselves accountable to nobody,  
ought not to be trusted by anybody*

Thomas Paine

## LANGUAGE EDITING



### LANGUAGE EDITING OF THESIS

I hereby declare that I, Dr Mechaela Scott Van Wyk edited the PhD thesis of Franciska Bothma entitled

**A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa**

**Qualifications relating to language editing:**

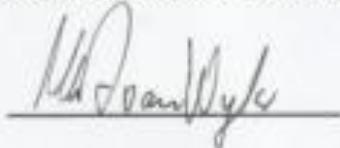
BA with Journalism III French III English II and Latin I  
Higher Education Diploma with subject didactics English and French

**Work experience relating to language editing:**

Six years of teaching English as second language to grades 10-12 with two additional years of teaching English as first language to grades 8 to 10 and French as foreign language to grades 10-12

Translation of text (Afrikaans to English) and language editing of English text for the Faculty of Education at the former PU for CHE over approximately 15 years

Signature:



Date: 2015-04-25

## ABSTRACT

### *Keywords*

*Academic work, accountability, answerability, constitutional rights, employment contract, lecturer working conditions, higher education law, labour rights, lecturer professional status, lecturer teaching responsibilities, lecturer security, lecturer rights protection, professional conduct, student success, teaching quality.*

The widening of access to Higher Education (HE) with a concomitant call for more accountability in the HE sector locally and globally, has altered the former elitist status of the university and impacted the professional standing, autonomy, and working conditions of lecturers negatively. Lecturers are increasingly held to account for providing quality teaching and delivering employable graduates. Yet their work environment has been characterised by poor support, dwindling resources, lack of recognition and reward for teaching efforts and excellence, and absence of legal protection when failing to fulfil the undefined yet high accountability expectations in their teaching-related work. This state of affairs has had an inevitable influence on lecturers' perceived security in their labour environment. The overarching purpose of this study was therefore to generate guidelines to improve the existing juridical foundation for accountability of South African (SA) HE lecturers with a view to enhance their security in their employment context. In order to assist in the fulfilment of this central purpose, the study aimed to develop understanding of how lecturers perceive their accountability and security in light of diverse teaching-related responsibilities and vagueness in terms of expected conduct; and the protection (or lack of protection) of their rights and professional status. An international perspective on these issues was imperative to shed some light on how regulation elsewhere could improve practices in the SA context.

While SA lecturers are equally entitled to all the rights stipulated in the Bill of Rights, they are also subject to and accountable for upholding the provisions of the SA Constitution and derived labour legislation relevant within the HE environment. The founding values of the Constitution, namely equality, human dignity and the protection of human rights and related freedoms, form not only the basic standard for measuring lecturer conduct, but also the legal basis for challenging policy, system or conduct that might threaten constitutional or labour rights. Yet, despite the existing juridical foundation for the regulation of accountability and rights protection of SA lecturers, comprising the SA Constitution, general labour and HE legislation, there is an absence of HE-specific teaching-related accountability regulation, resulting in lecturer insecurity regarding expected conduct, professional recognition and support, and accountability expectations in their teaching-related work.

In comparison, a number of Australian legal imperatives, including the Commonwealth of Australia Learning and Teaching Council's standard for quality teaching with corresponding quality indicators, provide for more clearly defined teaching-related accountability regulation. In addition, the Mission Based Compacts, the Threshold Standards, and the national Modern Award for the Higher Education Industry, afford Australian lecturers the protection of HE-specific rights relevant to enhance security in their unique work environment. These legal imperatives proved to be significant for informing the improved juridical foundation for lecturer teaching-related accountability in the SA context to enhance the security of the SA lecturer.

With a focus on the development of in-depth understanding of the phenomena of lecturer accountability and security via the perspectives and interpretations of lecturers themselves, the empirical study was grounded in an inductive qualitative methodology from an interpretive-phenomenological perspective. To ensure richness of descriptive data, lecturers actively involved in undergraduate teaching at three different local, and one Australian university, were purposively selected to participate in semi-structured individual and focus group interviews. The analysis and interpretation of the interview data included a comparative component to explore perceptions of lecturer accountability regulation and security protection in an Australian context with a view to identify inadequate legal provisioning for these phenomena in the SA HE environment.

From the data analysis and interpretation, seven meaningful themes were identified, associated with either lecturer accountability or lecturer security. The findings offered not only a clear delineation of internal and external lecturer teaching-related accountability, but also a comprehensive definition of lecturer professional security that was found wanting in all legal sources and other literature studied for this thesis. Moreover, in realisation of the primary aim of this study, twelve significant guidelines are presented to establish an improved juridical foundation for lecturer accountability that will enhance lecturer security in the SA Higher Education context. Amongst these are: the development of a clear delineation of teaching-related roles and responsibilities articulated for different academic post levels; the establishment of a professional HE teaching-oriented career path affording professional recognition via a professional body for lecturers, and requiring continuous professional teaching development; and the development of minimum conditions of employment unique to the work of the HE lecturer.

## OPSOMMING

*Sleutelwoorde: akademiese werk, aanspreeklikheid, verantwoordbaarheid, grondwetlike regte, dienskontrak, dosente se diensvoorwaardes, hoër onderwysreg, arbeidsreg, dosent se professionele status, dosent se onderrigverantwoordelikhede, dosent se sekuriteit, beskerming van dosente se regte, professionele gedrag, studentesukses, onderrigkwaliteit.*

Die verbreding van toegang tot Hoër Onderwys (HO), met die gepaardgaande oproep tot verhoogde aanspreeklikheid in die HO-sektor nasionaal en globaal, het die eertydse elitistiese status van die universiteit verander, met 'n gepaardgaande negatiewe uitwerking op die professionele status, outonomie en werksomstandighede van dosente. Dosente word toenemend aanspreeklik gehou om kwaliteit onderrig aan studente te verskaf en in-diensneembare graduandi af te lewer. Tog word dosente se werksomgewing gekenmerk deur swak ondersteuning, verminderde hulpbronne, gebrekkige erkenning en beloning vir onderrig-uitnemendheid, en 'n afwesigheid van wetlike beskerming wanneer hulle faal om aan die ongedefinieerde dog hoë aanspreeklikheidsverwagtings ten opsigte van hulle onderrig-verwante werk te voldoen. Hierdie toedrag van sake het 'n onafwendbare invloed op dosente se ervaring van sekuriteit in hulle werksomgewing. Die oorkoepelende doel van hierdie studie was dus om riglyne te genereer vir die verbetering van die bestaande juridiese fundering vir die aanspreeklikheid van Suid-Afrikaanse (SA) HO-dosente met die oog daarop om sekuriteit in hulle werkskonteks te verhoog. Ter bereiking van hierdie sentrale doel, het die studie beoog om insig te ontwikkel in hoe dosente hulle aanspreeklikheid en sekuriteit ervaar binne die konteks van diverse onderrig-verwante verantwoordelikhede, die vaagheid rondom verwagte gedrag, en die gebrek aan beskerming van hulle regte en professionele status. 'n Internasionale perspektief op hierdie sake is as belangrik beskou ten einde lig te werp op hoe regulering elders praktyke binne die SA konteks kan verbeter.

Terwyl SA-dosente geregtig is op al die regte wat in die Handves van Menseregte gestipuleer is, is hulle ook onderworpe en verantwoordbaar vir die onderhouding van die voorskrifte van die SA-Grondwet en afgeleide arbeidswetgewing relevant tot die HO-omgewing. Die fundamentele waardes van die Grondwet, naamlik gelykheid, menswaardigheid en die beskerming van menseregte en verwante vryhede, vorm nie slegs die basiese standaard waaraan dosente se gedrag gemeet moet word nie, maar ook die regsbasis om beleid, sisteme of gedrag te betwis wat dosente se grondwetlike- of arbeidsregte bedreig. Dog, ten spyte van die bestaande juridiese fundering vir die regulering van aanspreeklikheid en beskerming van die regte van SA dosente, bestaande uit die Grondwet en algemene arbeids- en HO-wetgewing, is daar 'n leemte ten opsigte van HO-spesifieke onderrig-verwante aanspreeklikheidsregulering, met gevolglike gebrekkige

sekuriteit ten opsigte van verwagte gedrag, professionele erkenning en ondersteuning, en aanspreeklikheidsverwagtings in hulle onderrig-verwante werk.

In teenstelling verskaf 'n aantal Australiese regsimperatiewe duidelik gedefinieerde onderrig-verwante aanspreeklikheidsregulering, onder andere die *Commonwealth of Australia Learning and Teaching Council* se standaard vir hoër onderrig-kwaliteit, met gepaardgaande kwaliteits-aanwysers. Voorts verskaf die *Mission Based Compacts*, die *Threshold Standards*, en die *Modern Award for the Higher Education Industry*, aan Australiese dosente die beskerming van HO-spesifieke regte relevant tot die verhoging van sekuriteit in hul unieke werksomgewing. Hierdie regsimperatiewe is betekenisvol as bydraend tot die riglyne vir 'n verbeterde juridiese fundering van dosente se onderrig-verwante aanspreeklikheid in die SA-konteks ten einde die sekuriteit van SA dosente te verhoog.

Met die fokus op die ontwikkeling van in-diepte insig in die fenomene van dosente se aanspreeklikheid en sekuriteit aan die hand van die perspektiewe en interpretasies van dosente self, is die empiriese studie gewortel in 'n induktiewe kwalitatiewe metodologie vanuit 'n interpretatiewe-fenomenologiese perspektief. Ten einde rykheid van beskrywende data te verseker, is dosente wat aktief betrokke is in voorgraadse onderrig by drie verskillende plaaslike en een Australiese universiteit, doelmatig geselekteer om deel te neem aan semi-gestruktureerde individuele en fokusgroep-onderhoude. Die analise en interpretasie van die empiriese data het 'n vergelykende komponent ingesluit ten einde die persepsies van dosente se aanspreeklikheidsregulering en sekuriteitsbeskerming binne 'n Australiese konteks te ondersoek om ontoereikende wetlike voorsiening vir hierdie fenomene in die SA HO-omgewing te identifiseer.

Uit die data-analise en interpretasie is sewe betekenisvolle temas geïdentifiseer wat hetsy met dosent-aanspreeklikheid of dosent-sekuriteit geassosieer kon word. Die bevindinge het nie net 'n duidelike afbakening van interne en eksterne aanspreeklikheid van die dosent verskaf nie, maar ook 'n uitgebreide definisie van dosente se professionele sekuriteit, wat nêrens in die regsbronne en ander literatuur wat vir die doeleindes van hierdie studie bestudeer is, gevind kon word nie. Verder, in die realisering van die primêre doel van hierdie studie, word twaalf betekenisvolle riglyne aangebied om 'n verbeterde juridiese fundering daar te stel vir dosent-aanspreeklik, wat dosent-sekuriteit sal verhoog binne die SA HO-konteks. Onder laasgenoemde ressorteer die ontwikkeling van 'n duidelike afbakening van die onderrig-verwante rolle en verantwoordelikhede geartikuleer vir verskillende akademiese posvlakke; die daarstelling van 'n professionele HO-onderrig-loopbaanpad met professionele erkenning via 'n professionele liggaam vir dosente, en wat deurlopende professionele onderrig-ontwikkeling vereis; en die ontwikkeling van minimum diensvoorwaardes uniek tot die werk van die HO-dosent.

## LIST OF ACRONYMS

### Acronyms particular to the Australian legal framework

ALTC	Australian Learning and Teaching Council
AQF	Australian Qualifications Framework
FWA	Fair Work Act
FWC	Fair Work Commission
NES	National Employment Standards
TEQSA	Tertiary Education Quality and Standards Agency

### Acronyms particular to the South African legal framework

BCEA	Basic Conditions of Employment Act
CCMA	Commission for Conciliation, Mediation and Arbitration
CEPD	Centre for Education Policy Development
CHE	Council on Higher Education
DHET	Department of Higher Education and Training
EEA	Employment Equity Act
HEQC	Higher Education Quality Council
HEQSF	Higher Education Qualifications Sub-Framework
LRA	Labour Relations Act
NPHE	National Plan for Higher Education
NQF	National Qualifications Framework
OBE	Outcomes-based Education
OHSA	Occupational Health and Safety Act
PAJA	Promotion of Administrative Justice Act
PAIA	Promotion of Access to Information Act
PE-PUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PQM	Programme and Qualifications Mix
SA	South African

### Other acronyms

AAUP	American Association of University Professors
ACHPR	African Charter on Human and Peoples' Rights
HE	Higher Education
ILO	International Labour Organisation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation

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# CHAPTER 1:

## PROBLEM STATEMENT, CONCEPTUAL FRAMEWORK AND RESEARCH DESIGN

### 1.1 INTRODUCTION

The global nature and extensive reach of Higher Education (HE) transformation over the past fifty years has resulted in significant changes to the nature, demands and end goals of HE (Altbach, Reisberg & Rumbley, 2009:iii; Harvey & Williams, 2010:3). Archer (2008:385) maintains that the responsibilities and requirements of academic work are, likewise, always evolving. Transformation over the past two decades has, in fact, seen academic work shift from “*a relatively autonomous profession operating within a self-regulated code of collegiality, to an organisationally managed workforce*” (Hazelkorn, 2011:12), with increased accountability at the heart of labour practices. Lecturer accountability for teaching quality and learning achievements of an ever growing number of students is identified as imperative to the well-being of individuals, industry and society as a whole (Altbach *et al.*, 2009:90; Toma, 2008:95). Yet, these accountability demands are not supported by a corresponding rise in numbers of academic staff (Altbach *et al.*, 2009:90; Bathmaker & Avis, 2005:47; Toma, 2008:95), while lecturers perceive their work to have become increasingly fragmented, overly scrutinised, and their workload steadily increasing year after year (Akerlind, 2005:5; Toma, 2008:95). Feigenbaum and Iqani (2013:61) summarise the concern in global HE circles very aptly when they affirm that lecturers “*cannot be expected to continue to provide evidence of quality assurance without the provisions of adequate support, time and resources needed to make real changes to teaching practices and learning environments.*”

This global trend has contributed to the initial rationale for the undertaking of this study – to determine whether South African (SA) lecturers are similarly held accountable in their employment environment despite a lack of adequate support, guidance and legal protection. An exploration of the nature of lecturer teaching-related accountability, the array of teaching-related responsibilities, and the influence thereof on lecturer security thus seemed apt in this time of rapid HE transformation. In the SA HE context, is lecturer accountability imbedded in clear task requirements and stipulated responsibilities? Which parameters delineate the standards for acceptable lecturer conduct? Does the SA lecturer have specific labour rights and how are these rights protected in the HE environment? Within this context, it was also deemed of interest to determine whether particular practices or legal instruments to balance

accountability with security already employed in other contexts may serve as examples to enhance similar practices and lecturer security in local context.

This chapter elucidates the background and orientation to the research problem. The conceptual framework is delineated via the integration of relevant literature, which frames the purpose and the aims of this study. Thereafter the research design, with specific reference to the research paradigm, methodology and methods of data generation and analysis, is briefly discussed briefly. The role of the researcher in the empirical study, the particular provisions for trustworthiness, as well as the delimitations and the anticipated limitations of the research are also dealt with. The chapter concludes with an indication of the relevance and anticipated contribution of the results of this study to the field of Higher Education, and more specifically, Higher Education law. For the purposes of this study the term Higher Education law simply refers to the application of the law in Higher Education, a term not yet well established in the SA context.

## **1.2 BACKGROUND AND ORIENTATION TO THE RESEARCH PROBLEM**

Higher Education (HE) transformation has always been, and will continue to be, a standing issue on government agendas worldwide. The focus of the required transformation, though, is always in a state of flux, depending on the concerned government's political ideology and strategic priorities for economic growth and social development. At the centre of this global transformation and the ever-increasing call for accountability and quality assurance (Harvey & Williams, 2010:3; Stanley, 2012:3), is the recognition of HE as the instrument for human capital development to meet the growing needs of diverse societies, resulting in a forced expansion of HE provision, a phenomenon referred to as massification.

Massification - the required widening of access to and participation in HE for more students (Altbach, 2013:8; Bryson, 2004:38; Clancy & Goastellec, 2007:137; Morley, 2003:5; Stanley, 2012:3), has also been a strategic priority of the South African Department of Higher Education and Training (DHET) over the past decade. From 2008 to 2012, student enrolments in South African (SA) public HE institutions have increased from approximately eight hundred thousand to upwards of nine hundred and fifty thousand. National HE enrolment targets for 2030 are set at more than 1.6 million students (DHET, 2014:4). This massive expansion and diversification of student enrolments have transformed the former elite status of universities (Altbach, 2013:9), resulting in a parallel change in standing and recognition of academics, with a concomitant requirement for longer working hours for a diminished monetary reward (Bentley, Coates, Dobson, Goedegebuure & Meek, 2013:2). Massy (cited by Burke, 2004:6) provides an apt quote in this regard: "*universities and professors have begun a long slide from objects of awe to subjects of accountability*",

indicating the growing demand for lecturer accountability and loss of professional status and autonomy that once characterised the work of the academe.

Sadly though, as Altbach (2013:21) points out, massification and the corresponding decrease in status of the university degree (and that of the academe) may in the end exacerbate inequality in HE since, whereas all universities are required to widen access, not all universities have the necessary facilities or sufficient funds to employ the staff to ensure quality education. Even more troubling is Altbach's estimation that, due to massification, the academic profession worldwide is now stretched to breaking point, which has resulted in less student support and *"a poorer learning environment for students, in part because the academic profession has not grown fast enough to keep up with expansion"* (Altbach, 2013:22). This inevitably influences the quality of student success and subsequent graduate employability (§6.2.4).

The DHET (2013:xiv) emphasises that although increased participation in and access to HE are imperative, large numbers of students entering the HE system are of little value without corresponding upturns in student success. Last-mentioned is unequivocally linked to the quality of teaching and student learning, indicating a clear accountability expectation of lecturers with regards to their teaching-related responsibilities. Massification has thus resulted in increased institutional accountability and over-emphasis on quality assurance mechanisms in global HE. Yet greater access will continue to equal increased HE drop-out rates (Altbach, 2013:23) as long as nothing is done to dwindling resources and support for HE lecturers in their teaching-related work.

The rapid growth of the HE sector globally has generated many challenges, chief of which are government funding constraints and stricter regulation of HE, increased institutional accountability and assurance of the quality of educational outcomes (Altbach, 2013:9; Bryson, 2004:38; Harvey & Williams, 2010:3; Stanley, 2012:9), and demands from business and industry for regular curriculum redesign to meet market needs (Kinman, Jones & Kinman, 2006:16). Moreover, Hazekorn (2011:13) and Feigenbaum and Iqani (2013:52) assert that consumerism has entered the HE arena. Students are becoming increasingly more assertive, expecting their personal educational needs and preferences to be met rather than implied standards of excellence, and competition among institutions vying for enrolling the most high-achieving students has increased dramatically. Carney (2013:iii) points out that the required institutional competitive edge impacts universities *"at their most fundamental level: with those who are teaching the core curricula."*

Logically all of the mentioned issues should have resulted in governments and academic institutions prioritising the professional development, upliftment and legal protection of the

people responsible for providing quality educational experiences to the future workforce and leaders of our communities. Yet Bentley *et al.* (2013:1) wonder at the little attention being paid to the sustainability and attractiveness of the academic profession despite the fact that a “*vibrant academic profession attracting the best and brightest of the next generation may indeed be what gives a nation a competitive edge in a global knowledge-based economy*”. Within the South African context the DHET (2013:32) recognises poor support for lecturer professional development and lack of recognition and reward for excellence in undergraduate teaching as two of the prime reasons for low student success rates. The improvement of success rates is positively correlated to high quality undergraduate teaching and learning, impacting directly on the teaching-related work of the lecturer. Unfortunately, despite the above acknowledgement of the DHET, the SA government’s transformation agenda for HE has not in practice begun to address the necessity of a balance between the call for accountability for student success and corresponding support and funding for capacity-building of the academe.

It is important to note two matters at this time:

- the definition supplied by the Oxford Dictionaries (2014) for the concept of *lecturer* was adopted for purposes of this study, namely “*a person who gives lectures; an occupation at a university or college of Higher Education*”. In this study, in keeping with international scholarship on the topic of HE teaching, the lecturer in this role is referred to as a university teacher. The investigation into lecturer accountability and security thus focused on the undergraduate teaching-related work of the HE lecturer, and not on research expectations or postgraduate supervision.
- since the empirical study of this research was grounded in the interpretive paradigm, more specifically from an interpretive-phenomenological perspective employing a qualitative methodology (§1.6.1), the context of a phenomenon under investigation is of great importance for the understanding thereof. Within a legal context *accountability* has the inherently distinctive meaning of “*a state of being liable, answerable, or accountable*”, thus inferring that “*some legal rule(s) exists under which a theory or claim can be made to find one liable in a civil law suit or culpable in a criminal matter*” (Law.Com Dictionary, 2014a). Unlike the distinctive meaning inherent to accountability in legal context, when this phenomenon is qualitatively researched and interpreted to express the perspectives of individuals outside of a legal context, it may become endowed with a different connotation since each individual interprets it from his or her context which is influenced by, amongst others, culture and work environment, giving rise to multiple realities of that phenomenon (Smit, 2010:35; Newby, 2010:35).

In order to position accountability and lecturer security as the primary foci of this research, it is important to introduce and conceptualise these concepts before the problem statement and research questions can be presented. A more elaborate conceptual framework for the study follows in section 1.4.

### **1.2.1 Accountability as research focus**

Since, as indicated above, the legal definition for accountability may be restrictive within the context of an interpretive-phenomenological approach, a more general conceptual definition for accountability is introduced here. The Business Dictionary (2014) provides an appropriate broad definition: “*the obligation of an individual or organisation to account for his or its activities, accept responsibility for them, and to disclose the results in a transparent manner.*” Accountability thus implies an account-giving relationship between organisations and individuals or between individuals in different employment positions. Bovens (2007:450) simplifies the above definition by defining accountability as an “*obligation to explain and justify conduct*”, either by organisations or individuals. Both these definitions imply that accountability signifies a relationship between what Bovens refers to as an accounter and an accountee: the accountee is obliged to explain any and all decisions taken and actions performed, while the accounter will judge those decisions and actions based on certain transparent benchmarks or standards (§5.2.1).

Literature also distinguishes between individuals and organisations accounting for decisions, standards and conduct to external stakeholders, referred to as external accountability (Alexander, 2000:411; Berdahl, 2006:171; Burke, 2004:3); and employees being held accountable for their decisions and actions within the organisation, referred to as internal accountability (Burke, 2004:3; Hall, Bowen, Ferris, Royle & Fitzgibbons, 2007:407). This is an important distinction for purposes of this research, in that the accountability of the lecturer is both external and internal in nature as is further elucidated in Chapter 5 (§5.3 & §5.4). At this time and within the context of this particular study, the accountability of the lecturer is simply defined as the obligation of lecturers to take responsibility for expected tasks, and account for their conduct and for expected outcomes of their teaching-related work. This definition was expanded after the empirical study due to the data relating to the nature of teaching-related accountability generated by the participating lecturers (§8.3.5).

Lecturer security is introduced next as a second research focus for this study.

### **1.2.2 Lecturer security as research focus**

As was evident from the background and orientation to this research (§1.2), HE transformation impacts the teaching-related work and accountability of the lecturer. This

study not only intended to explore the nature of such accountability, but also the nature of lecturer security in light of the transformation and call for greater accountability for undergraduate teaching outputs.

The Merriam-Webster online dictionary (2013) provides the following definitions for security: *“the quality or state of being secure; freedom from physical danger; freedom from fear, anxiety or apprehension; freedom from the prospect of being laid off (job security); measures taken to guard against crime, attack, failure or escape; an instrument of investment in the form of a document providing evidence of its ownership; something pledged or given to make certain the fulfilment of an obligation (surety); confidence in one's safety or well-being”*. These definitions clearly indicate the complexity of the concept and its many applications, and point to the fact that there may be elements other than the obvious physical dimension that determine how individuals perceive their own security.

Although the physical dimension is recognised as important to lecturer security, the focus of this research was not on the lecturer's physical safety or protection from bodily harm in the workplace, nor on the issue of job security, normally equated with the assurance of the *“continuity of gainful employment”* and a stable income (Business Dictionary, 2014a). Rather, security was approached from a legal viewpoint, and more specifically from a labour law perspective, referring to the protection of the rights of lecturers in their employment environment.

Enders and Teichler (1997:347), and Locke and Bennion (2013:223) provide impetus for exploring lecturer security from a labour law perspective when they maintain that lecturers have become increasingly vulnerable in recent times, and this vulnerability is attached to factors such as deteriorating employment conditions and issues with regard to the questionable status and responsibilities of the academic profession. The research thus included aspects pertaining to the nature of security that lecturers derive from the protection of their human rights (§2.5), analysis and evaluation of existing institutional (§3.4.5) as well as national HE legislative instruments that influence lecturer security in the workplace (§3.2), their current employment conditions, health and safety regulation and labour rights (§3.3 & §3.4), the regulation of their many responsibilities and their workload (§6.2 & §6.4) and their declining professional status (§6.2.3).

An initial review of current scholarly work on the topic of lecturer security produced very few results, and the limited number of investigations mostly focused on either physical or campus security, or job security and job satisfaction of lecturers (Carney, 2013; Gappa, 2010; Gover, Tomsich, Jennings & Higgins, 2011; Kärnä, Julin & Nenonen, 2013; Reeves, 2014; Shin & Jung, 2014; Woolfolk, 2013). A meaningful definition for the security of lecturers in their

employment environment could thus not be found. It was envisaged that the findings from this study might produce such a comprehensive definition, and thus contribute meaningfully to the body of knowledge with regard to the concept of lecturer security in the HE environment (§8.4.4). The problem statement and questions that focused the research are introduced next.

### **1.3 THE PROBLEM STATEMENT AND RESEARCH QUESTIONS**

The preceding discussion has given a clear indication that lecturers in any modern day university, thus also in South Africa, are becoming increasingly vulnerable to factors such as an unrealistic workload without corresponding increases in resources or recognition; poor support for professional development; and deteriorating employment conditions and professional recognition. Yet there is an ever increasing demand for greater accountability for teaching quality, student success and graduate employability. It was therefore posited that such factors should inevitably have an influence on lecturers' perceived security and commitment to accountability expectations.

With a view to determine the regulation of lecturer accountability and the measure of protection of lecturer security in the SA HE environment, an initial review of relevant national sources of law (detailed in Chapters 2 & 3) revealed that there exists a basic juridical foundation with:

- sufficient regulation and quality assurance of the broader HE system and clear expectations for institutional governance and external accountability of HE providers;
- sufficient regulation of the general SA labour environment to provide general guidelines for fair labour practices, employee rights and minimum conditions of employment, also pertaining to the employment of lecturers.

Yet, a clear lacuna exists in terms of HE-specific national guidelines and regulation for the accountability, expected conduct and security of the SA lecturer.

In contrast to the undefined rights and responsibilities of the HE lecturer, SA public school educators find the nature of their rights, responsibilities, expected conduct, and thus their security, in particular national education-specific legislation, regulated via the application of Education Law (§1.4.2). Yet the nature of the accountability, rights and resultant security of the SA HE lecturer seem to be uncertain and therefore warrant careful investigation.

The main research question that was explored, therefore asks:

What comprises the teaching-related accountability and the security of the South African HE lecturer, and what guidelines will improve the existing juridical foundation for accountability to ultimately enhance lecturer security in the South African Higher Education context?

The sub-questions that supported the answering of the main research question are:

- Sub-question 1: How do South African national and institutional sources of law provide for the regulation of teaching-related accountability and expected conduct, and the protection of the rights and security of HE lecturers?
- Sub-question 2: How can a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct, and rights of the lecturer inform the guidelines for an improved juridical foundation for accountability to enhance the security of the SA lecturer?
- Sub-question 3: What is the nature of accountability in general, and in particular of the teaching-related accountability of HE lecturers?
- Sub-question 4: How do lecturers perceive their accountability in teaching-related work, and what are their opinions and perspectives on the nature of their security in light of their perceived accountability?

The rationale for the choice of Australia for the international comparison is offered in section 1.6.3. Before the above stated research questions can receive due attention, the theoretical framework for the study must first be outlined. As the concepts of lecturer accountability and security are mainly investigated from a labour perspective, the law lies at the heart of this research, with constitutional rights protection and legislative regulation of the HE labour environment as basis to position accountability and security as research foci.

Although it is conventional to position the research aims in the section following the research questions, I deviate slightly from this convention by first offering the conceptual framework before formulating the aims, and then for the following reasons:

- The background and orientation to the research problem (§1.2) position lecturer teaching-related accountability and lecturer security at the heart of the investigation, thus providing the rationale for the undertaking of the study. The primary and secondary research questions (§1.3) flow logically from such an orientation. The questions must first be answered against the backdrop of the research problem before the purpose and aims of the study can be realised.
- The conceptual framework of the study (§1.4) elucidates not only the lacunae that gave rise to the identified research questions, but also the primary and secondary research aims (§1.5) that can only be realised by way of answering the noted research questions. The conceptual framework thus sets the scene for the research aims, which in turn determine the nature of the research design that follows in section 1.6.

The above procedure is followed throughout the remainder of the thesis. The purpose of Chapters 2 to 8 is to find answers to the research questions of the study, while Chapter 9 presents the subsequent findings to realise the research aims.

## **1.4 CONCEPTUAL FRAMEWORK**

With reference to the above orientation and the clarification of the research foci, the problem statement and research questions, here follows an exposition of the conceptual framework for the proposed study.

### **1.4.1 Sources of law relevant to the study**

This study necessitated a distinction between national and institutional sources of law to ensure that the indicated lacunae (§1.3) with regards to a lack of clearly defined rights, teaching-related accountability and required ethical or professional conduct of the SA HE lecturer, are correctly situated, namely at national legislative level. Therefore, in the following sections a distinction is made between these two types of legal sources relevant to lecturer accountability. Simply put, a lecturer's accountability can either be regulated by sources of law external to the institution, thus national legal sources (§1.4.1.1), or by sources of an institutional nature, namely institutional policies, rules or regulations (§1.4.1.2).

#### **1.4.1.1 National sources of law**

According to Kaplin and Lee (2006:30-33), the USA includes federal or state constitutions, statutes, administrative rules and regulations, common law and international and foreign law amongst the external sources of law. In the SA context and particularly for purposes of this study, these types of external sources of law are also deemed essential for the improvement of the existing juridical foundation for lecturer accountability and the determination of the measure of security that these afford lecturers in their work environment. Therefore the analysis of legal determinants as reported in Chapters 2 and 3 includes a scrutiny of the provisions of the SA Constitution (108/1996), national HE and labour legislation, relevant legislation pertaining to public administration, and relevant case law, international and foreign law. These sources of law were analysed specifically with a view to determine whether and how they either provide a basic or a sufficient framework for lecturer conduct, rights and accountability.

Chapters 2 and 3 make it clear that the analysis of the relevant national sources of law revealed a lack of clearly defined accountability, expected conduct and rights of SA HE lecturers. In stark contrast, the expected conduct, responsibilities and rights of SA educators in public schools are not only deduced from general labour legislation, but clearly stipulated in national education-specific legislation. The most prominent of these are the South African

Schools Act (84/1996), the Employment of Educators Act (76/1998), the South African Council for Educators (SACE) Act (31/2000) - inclusive of the educators' Code of Professional Ethics - and the Personnel Administration Measures (DoE, 1999) (UNESCO-IBE, 2010/11:28). The proper regulation of formal education and educator conduct in the General Education and Training and Further Education and Training bands of the SA national education system makes the lacuna in this regard for lecturers employed in the HE sector, all the more prominent.

In South Africa the time seems to be ripe for more clearly defined national legal guidelines for lecturers' rights, conduct, and accountability to enhance their security. The importance of the SACE Code of Professional Ethics, first for the regulation of conduct of educators, and secondly for the enhancement of the professional status of educators, cannot be ignored in view of the lack of both for lecturers in the HE environment. The question may be asked whether it should not be a serious consideration for the DHET to develop such a code for HE lecturers. Worldwide it is rather the rule than the exception for a code of professional and ethical conduct in the education sector to exist as a "*clearly formulated code, a set of regulatory texts, laws, regulations, statutes...*" that governs the expected conduct of employees (Poisson, 2009:13). The existence of such codes as institutional sources of law receives due attention in section 3.4.4, but the question remains whether it may not be time to consider a national instrument to regulate lecturer conduct and enhance lecturer security. The findings from the empirical study contributed certain perspectives in answer to this question (§8.3.1.2 & 8.4.2.7).

Malherbe (2000:57) notes that the nature of case law in South Africa is an indication that education jurisprudence in general is developing, and that the issues of rights protection, accountability and autonomy specifically necessitate research and analysis within the framework of the SA Constitution (108/1996), inclusive of the Bill of Rights, and other relevant HE legislation. Smit (2013:301) agrees that the HE environment is rife with unfair labour practices and a steady erosion of the constitutional right to academic freedom. In this regard, the following quotation of Kaplin and Lee (2006:xxv) on HE Law in the USA is applicable:

*The Law has arrived on the campus. Sometimes it has been a beacon, at other times a blanket of ground fog. But even in its murkiness, the law has not come "on little cat feet"... nor will it soon move on... And even in its imperfections, the law has spoken forcefully and meaningfully to the higher education community...*

Pozkanzer (2002:2) is in agreement when he states that the litigious age we live in, where the protection of human rights are all important, will increasingly result in challenges to the

conduct of faculty members by students, colleagues, government, the press or public stakeholders, sometimes resulting in institutional disciplinary actions. Similarly, more often lecturers will feel obliged to turn to the courts to protect their own rights. With reference to the above, an improved juridical foundation for lecturer accountability with a view to enhance security will become more and more relevant.

The results of the analysis of relevant national sources of law are reported in Chapters 2 and 3 with a view to answer part of the first research sub-question, namely to determine how existing SA national sources of law provide for the regulation of the teaching-related accountability and the protection of the rights and security of the HE lecturer.

#### **1.4.1.2 Institutional sources of law**

In the absence of national HE-specific legislation for the regulation of lecturer conduct, rights and teaching responsibilities, the SA lecturer seems to be protected only by the provisions of the Constitution, general national labour legislation and applicable common law principles (Chapters 2 & 3). It is thus assumed, as is explored in section 3.4, that the lecturer's teaching responsibilities, rights and expected conduct should be stipulated and regulated at institutional level as well.

Institutional sources of law related to HE encompass institutional policies, rules and regulations, institutional employment contracts and academic customs (Kaplin & Lee, 2006:35-36). The focus in this study is on the existence and nature of applicable institutional policies and regulations, codes of conduct and lecturer employment contracts that may provide the basis for and protection of lecturer rights, and guidelines for teaching-related responsibilities and expected conduct. For this particular study, the documents used for the analysis of institutional sources of law as reported in section 3.4, were limited to those of the three SA research sites as identified in section 1.6.3. The results of that analysis were used to answer the second part of the first research sub-question, namely to determine how SA institutional sources of law provide for the regulation of the teaching-related accountability and the protection of the rights and security of HE lecturers.

#### **1.4.2 The relevance of South African Education Law in Higher Education law context**

Education is practised within the parameters of the SA legal system of which the boundaries are regulated by a variety of legal determinants, inter alia the SA Constitution, labour legislation, common law, inclusive of the law of contract and the law of delict, as well as education-specific national legislation (e.g. the SA Schools Act, National Education Policy Act, Employment of Educators Act, provincial school laws, etc.) (Bray, 2000b:35-37;

Oosthuizen, 2009:23). Education Law, although not yet recognised by Law Faculties as a separate discipline of SA law with unique norms and rules, has evolved into a separate hybrid field of study and discipline within Education Faculties over the past thirty years. It deals directly with the interpretation, application and enforcement of the law in the general and further education and training environment in South Africa (Oosthuizen, 2009:20-21).

Education-related legislation has provided Education Law with the necessary framework to investigate the regulation of the SA education system and the employment rights and obligations of the educators who enter into the profession. The SA Council for Educators (SACE) Act (31/2000), for example, not only aims to provide for the registration of educators, but also “*to promote the professional development of educators and to set, maintain and protect ethical and professional standards for educators*”. The SACE Code of Professional Ethics was specifically drafted for last-mentioned purposes. The SACE Act also provides for disciplinary procedures that the Council may take in cases where an educator is in breach of the Code of Professional Ethics. In addition, the Employment of Educators Act (76/1998) attends to the service conditions of educators as well as those regulations pertaining to the termination of a service contract. Furthermore, this Act clearly defines what is construed as misconduct and incapacity, thereby ensuring that such matters can be dealt with in a legal context.

Such legislation, together with applicable common law principles, has by implication made it possible for the practitioners of Education Law to clearly define the boundaries of accountability of educators in public schools towards different stakeholders in the formal public education system. Van der Westhuizen and Oosthuizen (1988:743) and Oosthuizen (2009:15) position the ontological essence of SA Education Law in the German concept of *geborgenheit* – maintaining or regulating the security of the respective participants in the education system. In this context, should the security of a participant in the SA public education system come under threat, and harm or loss occur from a delict, the wrongdoer should be held legally accountable to compensate for such loss. This is possible since the standards for professional and ethical conduct and the consequences for misconduct by an educator in a public school are clearly noted in national education-specific legislation.

It follows that education law is perceived as an appropriate vehicle for the regulation of an environment of *geborgenheit* for the respective participants in the public education system. The practice of education law promotes observance of the rights and obligations of the educator with a view to maintain a harmonious and safe environment for all role players (Oosthuizen, 2009:18). In the case of educators in public schools, grounded in the provisions of the SA Constitution and national education-specific legislation, labour rights and

duties are determined by the content of the employment contract, but also to a large extent by their professional employment status (Rossouw, 2010:49).

In contrast, whereas the study of education law globally, and HE law in particular in the USA, Australia and the UK seems to be well established (Kaplin & Lee, 2006; Farrington & Palfreyman, 2012), research outputs in the field of HE law in South Africa are as of yet limited in numbers. Moreover, SA HE legislation [e.g. the HE Act (101/1997), the South African Qualifications Authority Act (58/1995) and the National Qualifications Framework Act (67/2008)], although explicit in its regulation of the HE system and its management, is scarce in the provision of any guiding principles with regards to the work-related rights and obligations of those employed as lecturers in this sphere of SA education (§3.2). The long title of the HE Act (101/1997), for example, reads that the Act was promulgated:

*...to regulate higher education; to provide for the establishment, composition and functions of a Council on Higher Education; to provide for the establishment, governance and funding of public Higher Education institutions; to provide for the appointment and functions of an independent assessor; to provide for the registration of private Higher Education institutions; to provide for quality assurance and quality promotion in Higher Education...*

In the reading of the said Act, it becomes clear that the focus of such legislation is not on the establishment of a set of guidelines for the regulation of the expected responsibilities, conduct and resulting accountability of HE lecturers. Rather the focus is on governmental and institutional regulation and quality assurance of the system and management of public and private HE institutions (§3.2.3). This would not have been considered a problem if the HE Act, as is the case with the inclusion of the SACE Code of Professional Ethics in the SACE Act, had been supplemented with a code of professional conduct in which the rights, duties and expected standards of conduct of HE lecturers were outlined. One of the reasons for such an omission may be the questionable professional nature of academic work – an issue that receives attention as part of both the analysis of related literature (§6.2.3) and the qualitative empirical study (§8.4.3.4).

This concludes the section on the relevance of SA education law to the HE law context, and specifically to this study. The initial study of SA education legislation, and the application of education law in the general education environment, provided the foundation for the identified lack of national regulation for conduct and accountability, and the resultant questionable nature of the security of HE lecturers. In the following section the manner in which accountability as applicable to this study relates to the common law, is explained.

### 1.4.3 Accountability and its relation to the South African common law

According to Nieuwenhuis, Beckman and Prinsloo (2007:104) accountability from a legal perspective refers to an instrument employed to ensure that “*the actions of an individual or an institution may be traced uniquely to that individual or institution, and is typically undertaken in cases of negligence where liability must be determined.*” The concept of accountability for purposes of this study is inherent to the law of contract (Neethling, Potgieter & Knobel, 2010:4; Van der Merwe, Van Huyssteen, Reinecke & Lubbe, 2004:410), and accountability in this context is applicable where breach of contract occurs in the non-fulfilment of a legal obligation to perform, or a personal claim as agreed upon in the contract (Neethling *et al.*, 2010:6). The Law Dictionary (2014) defines a legal obligation as “*the duty that is enforced by a court of law; the legal responsibility to carry out what the law asks*”. Where breach of contract occurs, the primary remedy focuses on the enforcement of the contractual obligations (Neethling *et al.*, 2010:6).

The SA common law forms the basis for the law of contract (Van der Merwe *et al.*, 2004:410). Ferreira (2012:141) explains, though, that the common law “*does not take into consideration the fairness of the contract, but merely the fact that a contract has been concluded*”. Grogan (2003:4) adds that the common law does not provide for the intrinsic inequality in bargaining power between the employer and the employee, normally placing the employee at a disadvantage. Therefore national labour legislation provides the parameters for conduct in the labour relationship and establishes rules and conditions for an employment contract that are more favourable than provided for by the common law only. Rossouw (2010:33) concurs that over time the “*principles of the common-law contract of employment have been adapted in numerous ways and in many different Acts so as to provide for the needs of modern labour relations.*” Ferreira (2012:141) concludes that an employment relationship regulated only by common law without the provisions of labour legislation will not ensure sufficient “*protection for employees and crucial concepts such as fairness and equity*”.

Rossouw (2010:29) states that the SA common law is the “*uncodified legal tradition as derived from the Roman-Dutch and English law of the seventeenth century*”. Common law is thus normally not codified or written down in national statutes, but is developed by i) the courts over time to embody the SA legal background and traditions, and ii) the changing social, cultural and moral character of society (Roos, Oosthuizen & Smit, 2009a:105). Section 8(3) of the SA Constitution (108/1996) clearly stipulates that when a provision of the Bill of Rights is applied, a court -

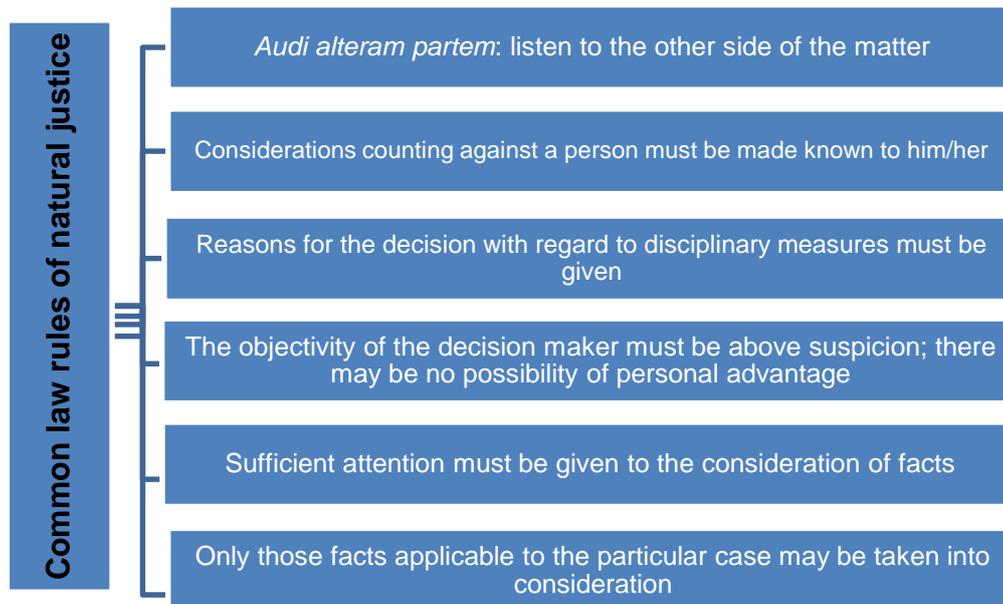
- *in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right; and*
- *may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36(1).*

In addition, section 39(2) provides that when a court develops the common law, the “*spirit, purport and objects of the Bill of Rights*” must be promoted. When a common law rule thus limits a constitutional right in an unreasonable or unjustifiable manner, the courts must adapt or develop the rule to align with the constitutional provision (Currie & De Waal, 2015:67).

With the exception of the principles of the law of contract, the original common law principles pertinent to this study have already been sufficiently codified in national legislation that forms part of the analysis in Chapter 3. Procedural fairness is one example of a common law principle that has already been codified in the Promotion of Administrative Justice Act (3/2000) (PAJA), giving effect to section 33 of the SA Constitution (108/1996), providing for and protecting the right of all individuals to administrative action that is lawful, reasonable and procedurally fair (§2.4.6). Thus noteworthy are the common law rules of natural justice, codified in the PAJA, and illustrated by Rossouw (2010:30) as depicted in Figure 1.1. Rossouw (2010:30) explains that in a case of alleged misconduct or in any disciplinary proceeding where there is cause to question whether an individual’s right to a fair procedure has been upheld, a court will apply the rules of natural justice to determine the concerned employer’s or administrator’s approach to handling the disciplinary case. The common law rules of natural justice thus inform the existing juridical foundation for lecturer accountability.

The common law also dictates that it is the duty of an employer to provide a reasonably safe and healthy work environment to his employees. Included in the concept of a safe working environment, will be the content of an employment contract characterised by fairness (Grogan, 2005:65). Ferreira (2012:140) confirms this in the following:

*The state may legislate on individual employee rights, collective rights, statutory procedures for the labour relationship and the establishment of bargaining machinery. Legislation on individual rights supplements common law. The contract of employment of an employee is included in common law, but not the exploitation of an employee. The basic rights of the employee, and in some instances those of the employer, should therefore be protected by the government through legislation.*



**Figure 1.1: The common law rules of natural justice**

The SA Constitution and labour-specific legislation such as the Labour Relations Act (66/1995) (§3.3.2) and the Basic Conditions of Employment Act (75/1997) (§3.3.3) have been promulgated in the SA context for such protective purposes.

It follows that the terms of the employment contract between the lecturer and the institution can be breached by either of the contractual parties, and such a breach will damage the relationship of trust between the concerned parties and should thus also be recognised as a threat to security within the employer-employee relationship (§2.4.5). But, where contractual liability is relevant, accountability can only be determined if the rights and obligations of the person held to account are clearly defined in the contract (Neethling *et al.*, 2010:3; Berdahl, 2006:172; Breaux *et al.*, 2009:308). An obligation refers to a legal tie (*vinculum iuris*) that binds legal subjects to one another in a legal relationship. Such a legal relationship consists of both a right to expect the performance of certain duties, and an obligation to perform such duties (Van der Merwe *et al.*, 2004:2). In section 29 of the Basic Conditions of Employment Act (75/1997) it is clearly stated that an employer is required by law to provide every employee with a written employment contract on or before the first day of commencement of employment. The main aim of a contract is to protect the contractual parties “*against any breach or unlawful action in terms of the contract itself*” (SA Labour Guide, 2014), while breach of contract refers to failure “*to perform any term of a contract, written or oral, without a legitimate legal excuse*” (The Law.com Dictionary, 2014b). Both the lecturer and his or her employer, thus the concerned university, are contractually obliged to fulfil the stipulations in the lecturer employment contract.

The foundation and requirement for a legally binding contract is consensus, which implies that the contractual parties are in agreement as to the content and resultant legal ties of the said contract (Grogan, 2005:50; Van der Merwe *et al.*, 2004:19). The employment contract regulates the terms and conditions of employment, subject to the stipulations for minimum employment conditions provided for in national labour legislation. The contract stipulates the benefits and resources that the employer will provide and to which the employee are entitled, but also the expected responsibilities of the employee (SA Labour Guide, 2014). When a lecturer therefore enters into a contract with a HE institution, a contractual obligation arises for both parties to the contract, implying a legally binding commitment between the lecturer and the institution. The institution makes an offer to the lecturer based on certain presuppositions with regards to his qualifications, experience and capabilities. If the lecturer accepts the offer, he commits to perform certain duties to honour his contractual obligations while the institution commits to provide the lecturer with certain benefits, resources and a safe working environment to effectively do what is expected of him or her (Grogan, 2005:62; Van der Merwe *et al.*, 2004:54-56).

It is thus assumed that for accountability and breach of contract to be determinable, a standard of conduct or a specific list of requirements should exist. As indicated by the results of the analysis of SA HE legislation (§3.2), neither the teaching-related responsibilities nor the expected conduct of the lecturer is recorded in any HE-specific national legislation, thereby complicating the determination of accountability within the employment context. It is therefore assumed that the expected conduct and teaching-related responsibilities of the lecturer should be included in the employment contract, providing motivation for the inclusion of an analysis of a sample of employment contracts in section 3.4. Thus not to analyse the exact nature and fairness of a typical employment contract according to the principles of the law of contract, but simply to determine whether such a contract provides clarity and regulation of lecturer accountability and security (§3.4.3). This also contributed in part to the answering of a section of the first research sub-question, referring to the employment contract as one of the institutional sources of law that provide for the regulation of the teaching-related accountability and expected conduct of lecturers.

#### **1.4.4 Accountability and its relevance to employment relations**

Hall *et al.* (2003:30) state that “*accountability, as a mechanism for establishing mutual obligation, represents the foundation for virtually all employer-employee relationships.*” They go on to explain that the employer’s accountability lies in the fact that he or she is obliged towards employees to provide a safe working environment, adequate resources to support optimal performance, and appropriate compensation. The employee’s accountability is

summarised as “*positive behaviours that contribute to the success of the organisation*”, a notion echoed by Grogan (2005:55) who maintains that employees must apply their skills and energies to further the employer’s business interests. In addition, Grogan (2005:52-54) specifies that as long as the employee remains in service as agreed in the employment contract, he or she must “*maintain reasonable efficiency*” by performing the contractual obligations to the standards required and clarified by the employer. The elements of accountability that are relevant to the nature of the employer-employee relationship (§5.2), and particularly the nature of the teaching-related accountability of the lecturer (§5.3 & 5.4 & 6.3), contribute to the answering of research sub-question 3: what is the nature of accountability in general, and in particular of the teaching-related accountability of lecturers?

The SA Constitution (108/1996) and national labour legislation like the Labour Relations Act (66/1995), the Basic Conditions of Employment Act (75/1997) and the Occupational Health and Safety Act (85/1993) (§3.3), provide sufficient regulation of the obligations of employers towards employees. The employment contracts of employees should clearly indicate those responsibilities and behaviours expected of workers to fulfil job requirements. The content of the employment contract, as already noted, is thus of importance to determine an employee’s accountability. Accountability enables social order in work environments under three conditions: when employees understand the nature and expectations of the tasks for which they are answerable (Hall *et al.*, 2003:30), when they know which behaviours are considered to be suitable for tasks completion, and when they know who will evaluate their work and hand out either rewards or sanctions based on the results of these evaluations (Breux *et al.*, 2009:310). The employment contracts of employees and an organisation’s code of professional conduct should therefore provide clear guidelines as to the expected conduct and responsibilities that the employee will be held accountable for.

Furthermore, Jenson (2006:97-98) and Breux *et al.* (2009:311) are of the opinion that the ability to adhere to specified task requirements and subsequently complete tasks successfully, will result in the earning of respect and approval from evaluating agents, thereby translating into positive effects on employee psychological states. Last mentioned should in turn enhance job satisfaction of the employee since he or she will experience a sense of achievement for labour efforts. The opposite is also true – when an employee is uncertain about expected behaviours and requirements to successfully complete a task, an increase in felt accountability may decrease job satisfaction and security (Breux *et al.*, 2009:319). Moreover, according to Erasmus, Schenk, Swanepoel and Van Wyk (2006:22-23), job satisfaction should be regarded by management as one of the primary determinants of employee productivity and retention. It can thus be assumed that a decrease in job satisfaction that leads to questionable employee security will ultimately negatively affect

organisational success since an employee with no job satisfaction will not be motivated to reach organisational goals. These elements were further clarified by the results of the empirical study since lecturer security was one of the foci thereof (§8.4.3.3).

Within the SA HE context Jansen (2004:310) notes the increasing demand for lecturer accountability for student performance while the outcomes of such measures often influence promotion opportunities and performance bonuses. It is thus evident that labour issues are central to the debate regarding accountable lecturer practices in HE. For purposes of this study, it was therefore necessary to explore relevant labour legislation to determine the measure of its regulation and protection of lecturer employment rights. The following Acts are relevant to the legal framework for HE lecturer accountability in South Africa: the Labour Relations Act (66/1995); the Occupational Health and Safety Act (85/1993); the Basic Conditions of Employment Act (75/1997); the Employment Equity Act (55/1998), the Unemployment Insurance Act (30/1996), the Promotion of Equality and Prevention of Unfair Discrimination Act (4/2000), and the Skills Development Levies Act (9/1999) (§3.3).

From the above discussion it can be concluded that accountability is highly relevant to the nature of the institution-lecturer employment relationship, providing impetus for the focus of this investigation from a labour law perspective.

#### **1.4.5 Accountability and its relation to professional and ethical conduct**

Within the field of HE, Boyer (quoted by Berman, 1998:3) contends that a careful exposition of the work of lecturers within their professional context will provide a valid framework for possible critique of their ethical and professional responsibilities, and inter alia, their accountability - an exercise that up to now seems to have been lacking within the scope of national legislation related to SA HE practice. The intersection of ethics and law where lecturer professional conduct is under investigation is recognised by Hardy (2002:388) and Macfarlane (2004:3). Ethical issues are linked to, amongst others, the personal and professional relationship between the lecturer and the student, the assurance that students will be sufficiently prepared for the labour market after completion of their studies as well as fair and non-discriminatory assessment practices.

Macfarlane (2004:4) emphasises that lecturers have certain ethical responsibilities that “*go to the heart of what it means to teach with integrity in the modern university.*” Therefore it is of great importance that lecturers engage with ethical issues and the implied responsibilities thereof since these play a pivotal role in defining their professionalism. He goes on to explain that HE lecturers are usually categorised as a “*disparate community of subject specialists*”, identified by their discipline expertise rather than by their inherent vocation as educationalists. Altbach *et al.* (2009:89) add that the academic profession is in crisis due to

the deteriorating status and working conditions of academic employees, thus necessitating an analysis of both these issues as they pertain to the security of the lecturer. An investigation into the lack of national legal guidelines for expected conduct of HE lecturers in South Africa is therefore highly relevant in the present HE environment and applicable to the conceptual framework for this study. These issues are further explored in Chapter 6 (§6.2) and as part of the empirical study (§8.3.1.2).

#### **1.4.6 Accountability and its relation to Higher Education worldwide**

With regards to accountable labour practices, HE worldwide has been under scrutiny for decades. In the American context, whereas the traditional university lecturer up until the late eighties had been accorded great degrees of academic freedom in their work, also in terms of reporting on the quality of their teaching and the resultant academic progress of their students, it is evident that this trend has been changing under the influence of new institutional policy instruments of academic accountability (De Molina, 1995:59; Dill, 1999:128). Alexander (2000:411) emphasises that the demand for accountable labour practices and increased institutional performance are standing issues on the HE agenda in the USA and that every HE institution is progressively “*being obliged to examine itself or be examined by others*”, thereby increasing accountability with regards to the use of public resources. The public is demanding that universities become more responsive to the needs of the national economy, necessitating that government demands an increase in institutional performance in the transformation of low-wage economies into productive, technology-based economic structures.

Hardy (2002:384) indicates that more often lecturers in the UK are held to account by superiors, students and the public for a kaleidoscope of real or perceived unethical behaviours and poor teaching practices. Davies and Thomas (2002:186) agree when they observe that students in the UK seem to be more demanding of their rights as customers, inclusive of more detailed justification of their awarded grades. Furthermore, the ongoing debate with regards to HE institutions’ right to institutional autonomy and the public’s claim to academic accountability is at the heart of HE labour issues (Hodson & Thomas, 2003:376). Hodson and Thomas cite as an example the growing demand for “*broader curricula providing students with relevant transferable skills that focus on the needs of the economy*”, which has led to performance indicators such as “*graduate employability*” as one of the outcomes of HE teaching practice.

There seems to be an over-emphasis on public accountability procured via state audits coupled by the demand for greater student access, while institutional autonomy and academic freedom are apparently of lesser importance. Hoecht (2006:541) voices concern that this strict quality management and accountability regime does not result in true

improvement in teaching and learning, but rather in “*one-way accountability and rituals of verification*”, and a decrease in the professional autonomy of HE lecturers. Hoecht (2006:543) goes on to say that the time is right for the policy makers in HE to “*engage in a proper debate about how teaching quality can be achieved without undermining the trust and the professional autonomy of academics.*” This statement goes to the heart of the question with regards to accountability of HE lecturers as a focus of this study.

Marginson (2000:23) states that the “*traditional practices of the Australian academic profession are in crisis,*” and that it is “*uncertain what the future of academic work and academic professionalism will be.*” He argues that what he calls the “*inner sanctuary of academic work*”, referring to academic traditions of curriculum and teaching autonomy and protected peer review, is no longer secure from the process of transformation and increased public accountability. McWilliam (2004:2) states that many Australian lecturers, in answer to the call for greater accountability, become “*risk-conscious academics*” who are “*increasingly on guard against student failure, declining standards and waste of resources. Thus they come to regulate themselves and their students in ways that are closely aligned to the ethos of the post-millennial university as a risk-conscious organisation.*” Such a statement is indicative of the fact that lecturers are more aware of the importance of both personal and professional accountability to ensure student performance.

As is the case with all SA citizens, HE lecturers are protected by the provisions and rights entrenched in the SA Constitution, national labour legislation and common law rules and principles, instruments that should contribute to their security, but are not sufficiently specific to serve as directives for the unique work environment of HE lecturers. The following are factors that seem to have a negative impact on their security in the workplace:

- the apparent lack of national HE legislation pertaining to their rights and teaching-related accountability, a legal instrument that could potentially enhance accountability and security and also regulate lecturer workload;
- the lack of a national code of professional conduct for HE lecturers, a legal instrument that could potentially serve both a regulating and a protective function for acceptable lecturer behaviour in the HE environment; and
- the questionable professional status of lecturers in the HE environment, often leaving them victims to external governmental interference in their core business of teaching, or public demands for increased accountability and a subsequent loss of academic freedom and autonomy.

This study therefore contends that the absence of national HE-specific legislation defining and regulating the accountability, rights and expected conduct of HE lecturers has a negative influence on their security and complicates the delimitation of their accountability.

This concludes the conceptual framework which served to position the research questions that were investigated by this study. Subsequently the research purpose and aims that had to be realised via the answering of the research questions, are presented.

## **1.5 PURPOSE AND AIMS OF THE RESEARCH**

In the light of the research questions (§1.3) and against the backdrop of some complexities elucidated in the conceptual framework (§1.4), the overarching purpose of this study was to generate guidelines that will improve the existing juridical foundation for accountability of SA HE lecturers. In order to assist in the fulfilment of this central purpose, using the lens of the interpretive-phenomenological paradigm (§1.6.1), the study aimed at developing understanding of how lecturers experience and perceive a) their accountability and security in light of diverse teaching-related responsibilities and vagueness in terms of expected conduct, and b) the protection (or lack of protection) of their rights and professional status. Such an understanding was acquired by following a qualitative empirical methodology, uncovering, analysing and interpreting the meanings that lecturers attached to these phenomena within their employment context. It was surmised that an international perspective on the regulation of accountability and security could shed some light on how practices in the SA context could be improved. The rationale for the selection of Australia for the international perspective is provided in section 1.6.3.

This study thus primarily aimed at presenting a comprehensive understanding of the nature of both the teaching-related accountability and the security of the lecturer, and at eventually generating guidelines to improve the existing juridical foundation for accountability that will ultimately enhance lecturer security in the South African Higher Education context.

The following secondary aims correspond with the research sub-questions posed in section 1.3 that focused the investigation to ultimately realise the primary research aim:

Secondary aim 1: Determine how South African national and institutional sources of law regulate accountability and expected conduct, and provide for the protection of the rights and security of HE lecturers (Chapters 2 & 3).

Secondary aim 2: Determine how a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct and rights of the lecturer can inform the guidelines for an improved juridical foundation for

accountability to enhance the security of the South African lecturer (Chapters 4 & 8).

Secondary aim 3: Identify and theoretically analyse the characteristics that constitute accountability in general, and in particular the teaching-related accountability of HE lecturers (Chapters 5 & 6).

Secondary aim 4: Qualitatively analyse and interpret the perceptions of lecturers regarding their accountability in their teaching-related work, and develop understanding of the nature of their security in light of their perceived accountability (Chapters 7 and 8).

It is important to note that this study was in no way aimed at compromising the academic freedom of HE lecturers, nor at deferring decisions with regards to the appointment of lecturers, the disciplinary content of qualifications, selection of appropriate study materials, or teaching and assessment approaches, to any external body. In an ever-changing and increasingly more demanding HE environment, the focus was on generating guidelines to improve the existing juridical foundation for lecturer accountability as a point of reference for the protection of lecturer rights and to frame teaching-related responsibilities and expected conduct in order to enhance lecturer security. Such guidelines should ultimately inform the Department of Higher Education and Training, and HE institutional management structures, of the necessity of a HE-specific legal foundation for lecturer teaching-related accountability, which will ensure that lecturers experience their employment environment as supportive and secure. In the following sections the research design for this study is outlined.

## **1.6 THE RESEARCH DESIGN**

This section briefly summarises the selected research methodology and paradigm for the empirical study, as well as the nature and scope of the research design. In Chapter 7 follows a more detailed discussion of all the elements of the research design employed to realise the aims of this study.

### **1.6.1 The research paradigm and methodology**

Research intending to generate, change or develop knowledge or understanding is always informed by a research paradigm – those assumptions, rules, values and practices that underlie the way in which a community of practice views reality (McGregor & Murnane, 2010:419; Newby, 2010:44). As such the choice of paradigm shapes the nature of the research design employed to carry out the research (Merriam, 2002:4). The paradigm should thus not be confused with the research methodology. The methodology refers to the principles and assumptions that determine how the research methods are deployed and

interpreted, thus the strategy of enquiry (McGregor & Murmane, 2010:420; Lopez & Willis, 2004:726).

In this study an interactive qualitative methodology was employed, and the empirical research was grounded in the interpretive paradigm, more specifically from an interpretive-phenomenological perspective. According to Maree (2007:176), interpretivism is based on hermeneutics, referring to “*the study of the theory and practice of interpretation.*” In an interpretive qualitative study the researcher, as the main instrument of data generation and analysis, thus employs an inductive strategy to develop in-depth understanding of how participants make meaning of selected phenomena (Merriam, 2002:6).

Creswell (2009:13) maintains that phenomenological research denotes a “*strategy of inquiry in which the researcher identifies the essence of human experiences about a phenomenon as described by participants*”. In essence phenomenology thus refers to each participant’s personal construction of the meaning of one or more phenomena. Through careful interpretation, the phenomenologist then adopts an epistemological stance “*whereby it becomes possible to access an individual’s cognitive inner world*”, exploring how people attribute meaning to their experiences (Biggerstaff & Thompson, 2008:4-5). Unlike descriptive phenomenology, where the human experiences under investigation are merely described, interpretive-phenomenological researchers not only describe, but search for hidden and apparent meanings embedded in the narratives of the context-specific life experiences of the participants (Lopez & Willis, 2004:728). As such, knowledge will emerge through dialogue, and understanding will be located in a particular context through the eyes of the participants and the interpretation of the researcher (Smit, 2010:35).

The two main phenomena investigated in this study were the accountability and the security of the HE lecturer, and the aims of the interpretive paradigm from a phenomenological perspective as described above, are in keeping with the type of questions that this research anticipated to answer (§1.3). The choice of paradigm and the methodology used are further clarified in section 7.2.

## **1.6.2 Methods of data generation**

### **1.6.2.1 The literature study**

The comprehensive review and critical analysis of related literature formed the first phase of the research project, and as such focused on two separate types of documents, namely:

- i. documents of a legal nature, e.g. legislation, institutional policies and regulations, employment contracts, court cases and other sources of law; and

- ii. more general literature regarding the teaching-related work, accountability and security of the HE lecturer, available in various formats, as forthwith clarified.

The literature study was employed to ensure effective answering of two of the sub-questions of this research, namely:

Sub-question 1: How do South African national and institutional sources of law provide for the regulation of the teaching-related accountability and expected conduct, or the rights protection and security of HE lecturers?

Sub-question 3: What is the nature of accountability in general, and in particular of the teaching-related accountability of HE lecturers?

Literature was obtained by utilising primary, and two secondary literary sources (where primary sources were inaccessible) in both electronic and printed format. These included national and international legislation and institutional policy regulatory documents, Higher Education and legal text books, articles in academic journals and conference proceedings relevant to the research topic. The views of a wide variety of authoritative scholars are included in the literary overview. Furthermore, relevant Web search engines were employed and applicable academic works were searched for combinations of key words such as accountability, academic freedom, academic work, academic working conditions, constitutional rights, contractual obligation, education law, employment contracts, faculty work, graduate employability, Higher Education law, Higher Education legislation and policy, Higher Education teaching, Higher Education transformation, labour law, labour practices, law of contract, lecturer professional status, lecturer responsibilities, lecturer security, professional conduct, professional security, teaching practice, teaching quality.

Best and Kahn (2003:247) and Bowen (2009:29) maintain that documents can be valuable sources of data to either explain the nature, status or context of a phenomenon at a particular time, or the development of the phenomenon over time. The researcher becomes immersed in the subject matter while examining relevant documents, thereby identifying emerging contextual themes or certain gaps that need to be investigated (Best & Kahn, 2003:248). For this method of data generation the researcher does not need consent to use those materials that are already available in the public domain (Rapley, 2007:10), referring to relevant national legislative documents in this particular study. For more institution-specific internal documentation such as institutional policies and professional codes of ethics, consent for use was procured from the relevant institutional authorities.

In this particular study, analysis of relevant sources of law was employed with a view to understand the nature of the existing legal framework for lecturer accountability and

expected conduct in SA HE context. This data generation method is less intrusive than methods where the presence of the researcher has an impact on the research environment, such as the conducting of interviews (Merriam, 2002:13) as explained in section 1.6.2.3.

### **1.6.2.2 A comparative approach**

A comparative approach was employed to investigate a limited selection of elements of the HE and labour legal landscapes of Australia and South Africa with a view to determine the nature of lecturer accountability regulation in both systems. The comparison comprised a theoretical component (Chapter 4) for the comparing of the national HE and labour legislative regulation of lecturer accountability and security in South Africa and Australia, and an empirical component in the comparison of interview data from a sample of Australian participants with those of South African participants as further explained in section 7.6.2. This theoretical comparison was by no means an attempt to compare all aspects of the Australian and South African HE or labour environments, but merely to mirror the regulation of lecturer accountability and security in Australia against that in South Africa at national level. While the perspectives and opinions of the sample of Australian participants on accountability and security was deemed of value within the scope of this study, it is further acknowledged that the perspectives of the sample of Australian participants in the empirical study do not represent the voice of Australian lecturers per se. The reasoning behind the selection of Australia for the comparison and as international research site is explained in section 1.6.3.

Smit (2010:21) maintains that comparative research in the education context can inform, shape and change educational practices and policies. Such an approach rests to a certain extent on reflective practice whereby prevalent structures, legal frameworks or teaching practices of one education system are investigated and compared to those of another. As was the case in this study, the theoretical comparison aimed to identify valuable ideas, policies or practices at national level in the Australian HE system that might be borrowed and adapted to inform possible reform in the SA HE context (Phillips, 2000:297; Smit, 2010:22).

Phillips (2000:298) lists the following aims for a comparative approach that are relevant to this particular study:

- *it shows what is possible by examining alternatives to provision at home;*
- *it provides a body of descriptive and explanatory data which allows us to see various practices and procedures in a wider context;*
- *it contributes to the development of an increasingly sophisticated theoretical framework in which to describe and analyse educational phenomena; and*

- *it has an important supportive and instructional role to play in the development of any plans for educational reform, when there must be concern to examine experience elsewhere.*

A comparative approach was therefore chosen to answer research sub-question 2: How can a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct and rights of the lecturer inform the guidelines for an improved juridical foundation for accountability to enhance the security of the SA lecturer?

### **1.6.2.3 The empirical study**

With regards to the generation of data for the empirical study, Bowen (2009:28) advocates that the qualitative researcher should draw on at least two sources of evidence to seek convergence and validation of generated data. This points to the interpretive researcher being cognisant of the fact that the employment of different methods of generating and analysing data will enhance the trustworthiness of the study (Henning, Van Rensburg & Smit, 2004:20) and will reduce the impact of potential researcher biases (§1.6.6). The provisions for trustworthiness of this study are clarified in section 1.6.7.

For purposes of this empirical study, data were generated via different types of semi-structured interviews. Merriam (2002:12) explains that interviews can vary from highly structured, with a pre-determined and ordered question schedule, to unstructured, with broad topics to be explored without a pre-determined order. The choice and specific utilisation of the semi-structured interview for this study is further explained in section 7.6.2.

A number of semi-structured individual (§7.6.2.2) and focus group (§7.6.2.3) interviews were used to allow for the gathering of in-depth information regarding participants' knowledge, experiences and perceptions about lecturer accountability and security (Best & Kahn, 2003:257). The interview as data generation method also allowed for the comparison of the perspectives of South African and Australian participants on the concerned phenomena. The interview as data-generation method was thus deemed appropriate to answer research sub-question 4, namely how participating lecturers perceive their accountability in their teaching-related work, and what their opinions and perspectives are of the nature of their security in light of their perceived accountability.

### 1.6.3 The research sites

The empirical research was conducted via face to face semi-structured interviews with participants at four purposefully selected sites, three SA universities and one Australian university. The characteristics of the four selected sites are offered in section 7.4.

It should be noted at this time that the selection was, in keeping with established qualitative research principles, not an attempt at generalisation of subsequent research findings, but rather a means to develop a more meaningful understanding of the two phenomena (lecturer accountability and security) that were investigated from the perspectives of lecturers in the employment of institutions with different missions and foci. Furthermore, since only one Australian research site was included for the empirical comparative component, it is acknowledged that the findings do not reflect the general Australian context, but rather provide an additional (albeit narrow) contextual perspective to shed even more light on the nature of the phenomena that were investigated. To preserve anonymity throughout the thesis, the universities are simply referred to as University A, B, C and D respectively (Table 7.3).

The main reason for selecting Australia for the comparative perspective was based on the SA Government's curriculum reform initiatives after the establishment of the first democratically elected Government of National Unity in 1994. These initiatives were implemented to "*address the issue of quality (and inequality) in South African education*", but also "*as a response to international trends in educational development*" (Botha, 2002:362). According to Jansen (1998:322), Curriculum 2005, referred to as outcomes-based education (OBE) policy that was implemented in SA public schools in 1998, had its origins in Australian competency debates. At that time the SA Government thus looked to educational provisioning in Australia to determine its applicability and value for curriculum reform at school level in South Africa. Moreover, Jansen (1998:322) established a link between the aim of OBE as a measure of accountability in an educational environment when he states that OBE is "*a means of evaluating the quality and impact of teaching in a specific school*". Curriculum reform thus encompassed the notion of a teacher being accountable for the quality of teaching and learning in the classroom, a notion that could also apply to the current HE environment where lecturer accountability expectations for the quality of teaching to improve student learning have escalated (§1.2 & §1.4.6). These observations were convincing enough to pursue the Australian model as an appropriate focus for the international comparative perspective for this study. Then, after having reviewed the developments in the Australian HE system over the last two decades, it became obvious that these developments could serve as possible directives for the development of the guidelines

for an improved juridical foundation for lecturer accountability in the SA HE context. These Australian developments and relevant elements of the Australian HE and labour environments are presented in Chapter 4.

#### **1.6.4 Participant selection**

According to Henning *et al.* (2004:71), the selection of participants for research is referred to as sampling. Sampling is done from a target population (Newby, 2010:231). The target population for this study was HE lecturers in permanent academic positions, in possession of at least a Master's degree in their field of study, involved in undergraduate teaching at selected public universities in South Africa, and one Australian university for purposes of one comparative view on the phenomena under investigation. Through the method of non-probabilistic, purposive sampling and for maximum variation in generated data, the participants from the different research sites in South Africa were selected from different faculties and disciplines with the aim of generating data from various contexts to provide rich descriptions of the concerned phenomena. The aim was not to generalise the findings in any manner, but rather to explore a variety of perspectives and opinions in order to develop in-depth understanding of the phenomena under investigation from within these different contexts. The participant selection is clarified in section 7.5 and illustrated in Table 7.4.

The participants from the different institutions were adequate in number, so that if a participant wished to withdraw from the study, it would not have had a major impact on the subsequent findings of the qualitative inquiry. Moreover, since permission was obtained for the empirical study from all the concerned institutional registrars and faculty deans of all the participating universities, the researcher would have had the option to request the participation of another lecturer from the same faculty at the same institution if a participant wished to withdraw. None of these considerations were necessary for the individual interviews since all the individual participants consented to take part in the research. For the focus group interview, the six participants that had initially been identified, all consented to take part in the research, yet one of the participants withdrew on the morning of the scheduled interview due to serious illness. The participant was not replaced.

#### **1.6.5 Methods of data analysis**

According to Henning *et al.* (2004:101) the true test of a competent qualitative researcher comes in the analysis of the data, which requires analytical craftsmanship. Although Creswell (2003:191), Henning *et al.* (2004:103) and Newby (2010:459) agree that the steps in the process of data analysis (§7.7) are mostly generic in any type of study, the nature of the research purpose will determine the method of approaching the data analysis (Newby,

2010:480). For purposes of this particular study, where the empirical research was grounded in the interpretive paradigm from a phenomenological perspective, the focus of the data analysis was on the development of depth of understanding of accountability and security from the perspective of the HE lecturer. The epistemological and ontological premises of the interpretive-phenomenological approach suggest that only through in-depth inductive analysis and interpretation can knowledge and understanding be developed of the context-specific, socially constructed, multiple realities different individuals attach to the same phenomenon (Best & Kahn, 2003:243; Creswell, 2003:144; Merriam, 2002:5). Of primary importance during the analysis of the generated data was therefore the interpretation of participants' varied perspectives and opinions of the two research phenomena. The data analysis process and methods are further explained in section 7.7.

A computer assisted qualitative data analysis software package (CAQDAS), namely Atlas.ti version 7, was used for support in the management, extraction, coding, annotating, organising, exploring and comparing of the raw data (Stewart, 2012:503). The use of Atlas.ti is further discussed in section 7.7. As proposed by Saldaña (2013:60-61), the coding methods selected when using Atlas.ti, namely in-vivo, descriptive, and focused coding, were deemed appropriate for the nature of the concerned research question. Every coding method is clearly described, and its selection adequately motivated, in section 7.7.2.

### **1.6.6 The researcher's role**

In the adoption of an interpretive-phenomenological paradigm and qualitative methodology for this research, my role as researcher was characterised by the following:

- as the primary instrument of data generation and analysis I inevitably became immersed in the data related to the phenomena under investigation, namely lecturer accountability and lecturer security (McMillan & Schumacher, 2001:396);
- as a human instrument, I could respond to participant behaviours during the interviews, summarise and clarify their responses, further explore unexpected answers and adapt questions with a view to deepen understanding of the phenomena of accountability and security that were explored (Merriam, 2002:5);
- as an active participant in the research, I adopted an exploratory, non-judgemental orientation, an openness to learn from different situations or contexts and, through analysis and interpretation, arrive at an understanding of the distinctive perspectives, opinions and beliefs of the participants concerning the phenomena (Biggerstaff & Thompson, 2008:9; McMillan & Schumacher, 2001:396); and

- continuous reflection, which refers to unceasing introspection and the acknowledgement of own biases, interests and perspectives on the research phenomena, as is forthwith clarified (Creswell, 2003:182).

Newby (2010:122) emphasises that the qualitative researcher should be aware of the fact that her relationship to the participants can evolve into a more social one with resultant influences on their behaviour and on the interpretation of the data. Because of the assumption that the researcher is inevitably an active participant in the study who perceives, experiences and understands the world around her from a particular position, her perceptions of and reactions to the participants can become part of the data for the study and should thus be carefully monitored so as to not unduly influence the results. Henning *et al.* (2004:19) describe this type of researcher as a “*co-creator of meaning*”. Moreover, as explained by Morse, Barrett, Mayan, Olson and Spiers (2002:18), the researcher must be willing to relinquish some of the ideas gained from interviews that “*are poorly supported regardless of the excitement and the potential that they first appear to provide*”.

As researcher I was responsible for the design of the research instruments, for obtaining appropriate permission to conduct the empirical study and for adhering to the ethical requirements for research. I personally conducted and transcribed the interviews and analysed the recorded data. As cautioned by Leedy and Ormrod (2005:139), I had to guard against preconceived ideas and personal experiences or biases regarding lecturer accountability issues to ensure that these did not unduly influence the collation and analysis of the data. As far as was possible, I therefore tried to ensure that the generated data, and especially the analysis thereof, were an accurate reflection of the perspectives, opinions, beliefs and thoughts of the participants. Moreover, I tried to make sure that the participants understood that I did not hold preconceived notions regarding the outcomes of my study, thereby encouraging them to share perspectives and opinions without reservation.

In this regard it is important to note my professional context, since it bears on my role in, and motivation for, this research. My current employment position at the North-West University is that of academic advisor to lecturers within different faculties. According to my task agreement I am responsible for the training of both new and experienced lecturers to develop their professional skills in their teaching practices. In addition, I also act as an advisor when issues arise from managers’ and students’ complaints with regards to lecturer conduct in the classroom and lack of students’ academic performance. I am also cognisant of the significant impact of the national call to widen access to and participation in HE on lecturer workload and teaching practices. Moreover, I am involved with development and design of new qualifications and the alignment of qualification standards to the requirements and

standards of national bodies such as the Department of Higher Education and Training (DHET), the Council on Higher Education (CHE) and the Higher Education Quality Committee (HEQC). It is therefore obvious that I have a vested interest in the findings from the study that will be particularly applicable within my own professional context. Despite this vested interest, I refrained from manipulating any of the findings since I deemed a true reflection of lecturer perspectives on accountability and security as essential to guide me in providing valuable future service to lecturers in my employment capacity. With reference to my role in this research, it is therefore apt to clearly explain the provisions for trustworthiness employed in this study.

### **1.6.7 Provisions for trustworthiness**

As with the previous section on the role of the researcher, provisions for trustworthiness are explained in detail in this section and thus do not form part of the more elaborate discussion of the research design in Chapter 7. According to Golafshani (2003:601-602), establishing trustworthiness in a qualitative study is essential to ensure reliability, while reliability is deemed a consequence of the validity of the study. Reliability refers to the degree of consistency of a selected method or procedure to measure what it is supposed to measure (Best & Kahn, 2003:277). Validity refers to the “*degree to which the research findings actually reflect the phenomenon being studied*” (Akerlind, 2012:124), thus the soundness of the selected method to enable accurate measurement (Best & Kahn, 2003:277).

Newby (2010:121) emphasises that the reliability and validity of any type of research require that the approach and the methods chosen for a study are appropriate and are sufficient in rigour to withstand any normal variation in researcher influence. Research without rigour is worthless (Morse *et al.*, 2002:14) and Tobin and Begley (2004:390) refer to such rigour as “*the means by which we show integrity and competence... it is about ethics and politics, regardless of the paradigm*”. Therefore, since the boundaries between the professional and more social role of the researcher can become blurred in a qualitative study, with a resultant influence on the behaviour and responses of the participants, additional measures need to be taken to enhance the internal validity and subsequent trustworthiness of the research (Newby, 2010:122).

The first strategy used to enhance the internal validity of this study was the clarification of the researcher’s biases and personal interest at the outset of the study. This was addressed in section 1.6.6, where my role as researcher in the empirical study was explained. Secondly, I made sure that the sample was appropriate for the intended research in the sense that the selected participants had sufficient knowledge of and experience with the research topic to add value to my study (Morse *et al.*, 2002:18). A third strategy employed to enhance

reliability and internal validity, is a method sometimes referred to as triangulation - the employment of various strategies (e.g. multiple participants, two or more methods of data generation or of data analysis) to study a particular phenomenon (Bogdan & Biklen, 2007:116; Sands & Roer-Strier, 2006:237). Newby (2010:122) concurs that triangulation is a process whereby the researcher seeks to cross-validate or confirm emerging themes or findings by employing two or more independent sources for data generation and analysis. Bogdan and Biklen (2007:116) advise against the use of the term triangulation in qualitative research because in their opinion, the nature and inherent meaning of the term confuses more than it clarifies. I decided to heed their warning and to simply clearly explain how and why I employed different methods to enhance reliability and internal validity of my study.

The employment of different methods of data generation and analysis in qualitative research is not to establish one particular truth, but rather to offer a deeper, more complete or more comprehensive view and understanding of the phenomena under investigation, still allowing for the acknowledgment of multiple realities of research participants (Tobin & Begley, 2004:393). The researcher thus looks for complementary, converging or diverging patterns to verify, support, develop or question findings, assuming that possible weaknesses in one method will be compensated by strengths in another (Mays & Pope, 2000:51).

According to Sands and Roer-Strier (2006:239), convergent findings enhance the validity of the results in that the findings from one data source will corroborate the findings from another, while complementary findings refer to the combining of findings from different data sources to paint a more complete picture of a topic. Diverging patterns need to be further explored to determine whether the divergence, if detected, was due to researcher or methodological error, or whether such differences point to significant contextual issues (Sands & Roer-Strier, 2006:240). Onwuegbuzie and Leech (2007:242) refer to this phenomenon as "*checking for the meaning of outliers*", emphasising the importance of not ignoring such exceptions but exploring the possibility that these may provide valuable insights regarding the particular phenomenon under investigation. Such diverging patterns or outliers may lead to a deeper understanding of a different reality regarding a research topic, strengthening the conclusions of the study.

In the empirical component of this research, data were generated in the form of responses to open-ended questions by multiple participants in either individual or focus group semi-structured interviews with a view to:

- find repetitive themes, emerging patterns of thought or converging perspectives on lecturer accountability and lecturer security. Diverging perspectives and opinions were

also documented and further explored to form part of the eventual themes that emerged from the data analysis and interpretation (Chapter 8);

- compare data from the SA and Australian interviews to determine similarities and differences in perspectives and opinions and to identify significant Australian practices or structures that could inform the accountability and security regulation of lecturers in the SA context (Chapter 8).

In an additional effort to either cross-validate or compare certain emerging claims, perspectives and opinions in the findings from the mentioned individual interviews, thereby providing the “*clearest possible picture of the research topic*” (Henning *et al.*, 2004:93), one focus group interview was conducted with five participants from the third SA research site, University B. Newby (2010:350) explains that “*the strength of the focus group is that the structure of the discussion should not be limiting. Discussion should flow to allow issues and perspectives to emerge and to be discussed.*” The rationale for the employment of the focus group in this study is further clarified in section 7.6.2.3.

For the focus group interview the same interview schedule was employed as for the individual interviews. A number of converging perspectives and opinions offered by participants during the individual interviews were however added with the purpose of providing as clear and comprehensive a picture as possible of participants’ conceptualisation and understanding of the phenomena investigated in this study. The participants in the focus group were explicitly selected as lecturers with a passion for and focus on excellence in teaching in that every participant in the focus group interview had won a teaching award of some sort during the period 2011-2014. I was aware that the selection of such a distinguished group could extract more positive responses concerning feelings of teaching-related accountability than those of lecturers with a more balanced focus on teaching and research, but argued that the more proficient the lecturer the better the insight in matters regarding teaching practice and student learning would be.

The interviews were voice-recorded and transcribed verbatim by the researcher who also conducted the interviews, using the language of the participants. After the transcription of the interviews, each participant was given the opportunity to review his or her own transcript to ensure that the transcription was accurate, thereby adding to the internal validity of the data. It should be noted that in the review of the transcriptions, many of the participants clarified views that were difficult to gauge from the verbatim transcriptions, and many corrected language errors in their responses, especially those participants whose home language was something other than the English employed during the interviews. Two of the participants, both from a SA research site, did not respond to the email requesting the

checking of their transcriptions. After waiting three weeks for their responses, it was assumed that the emails would not be answered and the transcriptions were used as they were. Onwuegbuzie and Leech (2007:241) refer to this strategy for enhancing validity as “*member checking or informant feedback*”, whereby participants are provided the opportunity to check the credibility of their interview transcriptions.

As already mentioned, the use of Atlas.ti was another method employed during the exploration, analysis, integration and management of the data with a view to enhance the trustworthiness of the findings. In a final effort to enhance the validity and reliability of the research data, the methods of data generation and analysis, and the exact research procedures are reported in detail in Chapter 7 in order to provide an accurate and unambiguous picture of all methods employed in this study.

### **1.6.8 Delimitations and limitations of the study**

According to Creswell (2003:142) it is important that the researcher should indicate the boundaries and context of a proposed study by clearly defining key terms, indicating the significance of the study, delimiting the study, and stating the limitations of the proposed research. The definition of terms relevant to this study is dealt with in the introduction and conceptual framework (§1.2 & §1.4). Due to the nature of inductive qualitative inquiry, terms or themes that emerged during the processes of data analysis and interpretation are defined in the discussion of the research findings (Chapter 8) (Creswell, 2003:144). The significance of the study is clarified in section 1.7.

Delimitations, used to narrow the scope and define the boundaries of the study (Creswell, 2003:147-148), are discussed in those sections pertaining to the research questions (§1.3), the purpose and aims of the research (§1.5) and all sections of the research design, specifically the selection of research sites and the number and characteristics of the participants in the sample (§1.6 & §7.5). The empirical study was delimited by the semi-structured interview schedule of which the broader themes and initial questions had been pre-determined by deductive reasoning during the analysis of legal sources (Chapters 2 & 3) and the literature study (Chapters 5 & 6).

Regarding the limitations of the study, which normally indicate potential weaknesses, no serious limitations or setbacks influenced the quality of the research negatively. The planned empirical study could thus be executed as had initially been planned. In this regard I have to acknowledge the generous financial support from the National Research Foundation; the willingness of institutional and faculty managers to allow the research to be undertaken at each of the four research sites; and their support in identifying participants who truly co-operated and contributed with enthusiasm. The ethical considerations that were strictly

adhered to throughout the execution of the empirical research are explained in sections 1.6.9 and 7.3. I acknowledge, however, that a deeper understanding of the phenomena that were investigated would have been gained with an increased number of research sites.

McMillan and Schumacher (2001:22) assert that qualitative research can sometimes be constrained by human nature, referring to the role and possible biases of the researcher (clarified in section 1.6.6), and the characteristics, personalities and conduct of the participants. The lecturers participating in this study could decide how and to which questions they wanted to respond while the unique personality, personal experiences and particular context of each individual meant that I sometimes had to deal with certain ambiguous variables. I acknowledged these human traits, strove to clarify vague responses throughout the interviews, and endeavoured to present the findings from the empirical study without distortion. The strategies employed for these purposes are discussed in the section on the provisions for trustworthiness of this study (§1.6.7). These same human traits also provided for rich descriptions and depth of understanding of the research phenomena within the specific context of the study.

### **1.6.9 Ethical aspects of the qualitative research**

From the onset of this study it was acknowledged that ethical research is dependent on the integrity of the researcher. As such, this study was undertaken with the utmost regard for ethical concerns. As is the nature of any qualitative empirical study, the researcher interacted with participants on a personal level while entering their private work spaces. Understandably that raised a number of ethical issues for consideration before, during and after the empirical study. Amongst these were informed consent of institutional and faculty management as well as from the participants in the interviews, researcher clarification of research purpose, personal biases and expectations, assurance of confidentiality, anonymity and minimal disruption to the normal work schedules of the participants. All relevant ethical aspects pertaining to this study are discussed in detail in section 7.3.

It is important to note that this study was part of an overarching research project, namely "*An education law perspective on educator rights and educator security within a changing education environment*". This ongoing overarching project has already been externally evaluated and approved, and is funded by the National Research Foundation (NRF). Ethical clearance has been obtained from the ethics committee of the Faculty of Education Sciences of the North-West University under the number NWU-00018-11-A2. The main objective of the overarching educator rights and educator security project is to gain, through thorough empirical investigation and comprehensive literature and legal analysis, insight into selected elements of educator security. These insights guide the researchers involved to a better

understanding of the phenomenon of educator security in a variety of educational settings. For purposes of this particular study, the educational setting for the exploration of educator security was expanded to the HE environment. Before any empirical activity for this study began, additional ethical clearance had been sought and attained from the concerned NWU ethics committee regarding those elements unique to this study. NWU ethics approval for this sub-project was obtained on the 20<sup>th</sup> of March 2014 (Ethics certificate Addendum 1.1).

## **1.7 RELEVANCE AND CONTRIBUTION OF THE STUDY**

Creswell (2003:149) notes the importance of the inclusion of this section for creating a rationale for conducting the study, as well as a motivation for the importance of the findings from the study.

### **1.7.1 Relevance and contribution to Higher Education practice**

The findings from this study contribute to the expansion of knowledge and understanding of the HE environment, the as of yet limited practice of HE law in South Africa, and the legislation that govern conduct and accountability therein. Ultimately, the guidelines for an improved juridical foundation for accountability of the lecturer resulting from the research provide HE institutions, as well as the national Department of Higher Education and Training, with a solid foundation on which to base the development of a HE-specific national legal instrument for lecturer teaching-related accountability and labour rights, thereby enhancing their security in the workplace. As such the relevance and contribution of this study to the field of HE and HE law is significant.

### **1.7.2 Relevance and contribution to the project within the research unit**

Up to now, the different studies within the relevant NRF project (§1.6.9) have focused on educator security and rights in the SA public school system. This specific study moves the focus from the school educator to the accountability of lecturers in the HE environment with a view to enhance their security. The findings and conclusions from the study thus contribute to the building of new theory in a new field of education law, namely Higher Education law.

The study, being a subproject of the *Educator rights and educator security* project, also contributes to the research conducted within the Education and Human Rights in Diversity (Edu-HRight) Research Unit of the Faculty of Education Sciences of the NWU, and more specifically the *Legal Perspectives in Education* project group of the Unit.

## **1.8 CHAPTER DIVISION**

- Chapter 1: Problem statement, conceptual framework and research design
- Chapter 2: Constitutional framework for accountability and security in Higher Education
- Chapter 3: National and institutional legal determinants for lecturer accountability and security
- Chapter 4: Relevant international law: an Australian perspective
- Chapter 5: Accountability of Higher Education lecturers
- Chapter 6: The teaching-related work and security of the Higher Education lecturer in global context
- Chapter 7: The research design
- Chapter 8: Empirical data analysis and findings
- Chapter 9: Conclusions and recommendations

## **1.9 SUMMARY OF CHAPTER**

The first chapter of this thesis served as a general orientation to the research problem, the research questions and the specific research foci that are addressed throughout this study. The chapter aimed to provide a clear conceptual framework for the research, a description of the research methodology, paradigm and design, as well as the research purpose and aims. The following chapter focuses on an investigation into the SA constitutional framework for accountability and subsequent contribution to the security of lecturers in their working environment.

## CHAPTER 2:

# CONSTITUTIONAL FRAMEWORK FOR ACCOUNTABILITY AND SECURITY IN HIGHER EDUCATION IN SOUTH AFRICA

### 2.1 INTRODUCTION

In conceptualising a legal framework for accountability in the SA context, the concept of democracy will always be of fundamental importance (Figure 2.1, pillar A). Nieuwenhuis *et al.* (2007:105) are of the opinion that democracy can never be viewed as a static concept, but that in its evolving state, it will always be characterised by the protection of the basic human rights of all citizens of a country and by the voice of the majority reflecting the actions of government. As such the protection of fundamental human rights is the primary constraint on the abuse of government power (Bray, 2000a:9). Ideally, the principles and values of a modern democracy, if implemented fairly and with rigour, should promote economic development and peaceful co-existence (Nieuwenhuis *et al.*, 2007:106; Mattes, 2002:23).

The provisions of the SA Constitution (108/1996) (*hereafter referred to only as the Constitution*), and more specifically the Bill of Rights, are the embodiment of South Africa's modern democracy and set out the legal rules whereby the country must be governed. According to Jonathan (2006:7) the functional nature of a democracy should gradually evolve "*through legislation enacted by successive democratically elected governments and through the appropriate performance of other organs of state, all parties acting co-operatively for the fulfilment of primary constitutional commitments to the people.*" Deeply entrenched in the democratic principles, values and ideals are the notions of accountability. In section 3 of the Constitution it is stated that all SA citizens are "*equally entitled to the rights, privileges and benefits of citizenship*"; but with those rights and privileges come the expectation that every citizen will fulfil certain duties and responsibilities.

Also, section 7 of the Constitution requires of the state to "*respect, protect, promote and fulfil the rights in the Bill of Rights*". Nieuwenhuis *et al.* (2007:113) remark in this regard that this is "*a substantiation of the intention that public officials and individual private persons should, in the new South Africa, be accountable for both their acts and their omissions*". Thus, all role players in the HE system, including lecturers, students and managers, are bound to account for the enactment of their rights, the respect of the rights of others, as well as the actions, or the lack thereof, that may infringe on those rights. As such the values entrenched in the Constitution will permeate the legal foundation for the accountability of the HE lecturer. The constitutional framework for this study must therefore have at its foundation an analysis of those rights impacting directly on the work of the lecturer in the HE environment.

Figure 2.1 is an adaptation of an illustration of the pillars of the SA constitutional democracy as originally developed by Nieuwenhuis *et al.* (2007:111). This figure serves as a point of reference for the discussion that follows.

## **2.2 CONSTITUTIONAL DEMOCRACY, UNDERLYING VALUES AND THE RULE OF LAW**

One of the founding provisions of the SA Constitution, as stated in Section 1 thereof, is that the Republic of South Africa is a sovereign constitutional state founded on a number of values, inclusive of equality, human dignity, human rights and freedoms (Figure 2.1, pillar B). According to Oosthuizen, Roos, Smit and Rossouw (2009:27), the inclusion of these values in the founding provisions is not a common occurrence in all Constitutions, and serves to characterise the SA Constitution as a “*normative document*”. This implies that these values are the basic standard against which the actions and ethical behaviour of SA lecturers in their working environment should be measured.

The constitutional values are always relevant when any constitutional provision, fundamental right or for that matter, any other legal rule, is interpreted (Oosthuizen *et al.*, 2009:27). As the supreme law of the country, the Constitution therefore lays the foundation for a democratic society (Figure 2.1, pillar A) wherein every SA citizen is equally protected by law, and the values enshrined therein influence both the interpretation and the application of all the other rights protected in the Bill of Rights (Dupper, 2004:16). Rossouw (2010:47) adds in this regard that employees can use constitutional values and provisions to challenge existing legislation, but then also in the context of this study, HE lecturers can challenge institutional policies, rules or decisions made by university management if these are contrary to constitutional values or provisions. As stated by Krüger (2010:480) “*values serve as reasons for rules and rules (if they are any good) serve to implement values*”. It stands to reason, therefore, that HE lecturers are protected by the foundations and inherent values of the SA constitutional democracy and that the Bill of Rights will form the basis for defining their fundamental human rights, responsibilities and the basic nature of their expected ethical conduct.

A democracy functions from the premise of the rule of law (Figure 2.1, pillars A & B), whereby all people are equal before the law, while the law defines the rights and duties of the citizens of a country, limits those rights to ensure that citizens know what the law expects of them (Nieuwenhuis *et al.*, 2007:85,108), and promotes legal order in society (Stewart & Knott, 2002:7). Basically this means that no one is above the law; all branches of the government, including the national executive, legislative and judiciary powers, provincial and municipal governments, are also bound by law (Figure 2.1, pillar D).



### A. Constitutional democracy

- Shared decision making for all citizens
- Rule of law
- Equity for all
- Freedom to live and practise what you believe in
- Freedom from oppression
- Peace and stability
- Citizens share in wealth creation



### B. Foundations of the SA constitutional democracy

- Values of human dignity, equality, human rights and freedoms
- Non-racialism
- Non-sexism
- Supremacy of the Constitution
- Rule of law
- Universal adult suffrage, common voters' roll, regular elections
- Multi-party system of democratic government to ensure accountability, responsiveness and openness
- Citizenship



### C. Constitutional rights and freedoms

- Equality and human dignity
- Right to life, freedom and security of the person
- Freedom from slavery, servitude and forced labour
- Freedom of expression, religion, belief and opinion
- Right to privacy and access to information
- Right to assembly, demonstration, picket and petition
- Freedom of association
- Political rights
- Citizenship
- Freedom of movement and residence
- Freedom of trade, occupation and profession
- Right to fair labour practices
- Right to a safe environment
- Property rights
- Access to adequate housing
- Health care, food, water and social security
- Children's rights
- Right to education
- Language, religion and culture
- Just administrative action
- Access to the courts



### D. Constitutional structure and separation of powers

- Executive powers:
    - President and executive
    - National Assembly
    - Provincial departments
    - Metropolitan and local councils
  - Administrative powers:
    - National departments
    - Provincial departments
    - Metropolitan and local councils
  - Judicial powers:
    - Constitutional Court
    - Supreme Court of Appeal
    - Other courts
- ↓
- Regulation of the legal relationships between different spheres of government and between government bodies and individuals

Figure 2.1: The pillars of the South African constitutional democracy

The rule of law can be applied on a continuum from a narrow, basic formal conception where the rule of law requires that government can act through laws, thereby contributing little to “*the restraint of abuse of power, which is generally regarded as the purpose that the rule of law is meant to serve*” (Krüger, 2010:476); to a more enhanced conception of formal legality where the rule of law necessitates a transparent legal system with clear and accessible laws and adherence to court procedures where power is exercised *intra vires*, thereby preventing abuse of power for personal gain (Krüger, 2010:477).

Krüger (2010:484) summarises the SA Constitutional Court’s interpretation of the rule of law as follows:

*The Court applies this founding value as a formal constraint in some instances and as setting content standards in others. At a minimum, the Court has viewed the rule of law as requiring the exercise of power to be intra vires. The Court's interpretation of the rule of law as setting substantive standards is multifaceted. This is evident from its determination that the rule of law requires rationality and non-arbitrariness and procedural fairness as determined by context, and by the direct connection it has identified between the rule of law and the right of access to court.*

The rule of law thus not only guides the behaviour of individuals or organisations in a societal context, but also protects peoples’ rights and safeguards against autocracy and repression. Within their professional capacity, HE lecturers are therefore protected by, but also subject to and accountable for upholding the provisions of the Constitution and all subsequent legislation relevant to the regulation of their personal and employment environments.

## **2.3 THE BILL OF RIGHTS**

Chapter 2 of the Constitution contains the Bill of Rights which sets out the fundamental rights, inclusive of the civil, political and socio-economic rights, of all people in South Africa. As with all the provisions of the Constitution, the rights in the Bill apply to all law. Section 39 of the Constitution states that, when the Constitutional Court is interpreting the Bill of Rights, it must consider international public law and may take foreign law into consideration. According to Lollini (2012:60) this provision indicates that the drafters of the Constitution recognised “*the necessity of international legitimacy after decades of isolation under the apartheid regime, which had ignored international standards on fundamental rights*”. Also, when the Constitution came into operation in February 1997, the consideration of international and foreign law provided much needed aid in interpreting an entirely new constitutional text.

It should be noted that the concern for the protection of fundamental human rights originated in international law, more specifically from the United Nations (UN) Bill of Human Rights, comprising

the 1948 Universal Declaration of Human Rights (UDHR) (UNGA, 1948), International Covenant on Civil and Political Rights, and International Covenant on Economic, Social and Cultural Rights (Bray, 2000a:7-8; Botha, 1996:98). South Africa, as one of the more than 185 UN member nations, ratified the declaration and covenants of the International Bill of Human Rights, thereby assuming the obligations and duties to respect, to protect and to fulfil human rights. According to the UN:

*The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights; the obligation to protect requires States to protect individuals and groups against human rights abuses; the obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.*

The SA legal system must therefore provide legal protection of those human rights that are guaranteed under international law, which means that it is the duty of government to also ensure that HE lecturers are protected against any form of abuse of their rights. Of note for purposes of this study is that article 26 of the UDHR not only provides that all people have a right to education, but also that “*Higher Education shall be equally accessible to all on the basis of merit.*” HE access has therefore been on the SA HE agenda for some time and student enrolments have escalated dramatically over the past decade as discussed in section 1.1.

According to Dugard (2000:61) and Dupper (2004:28), the SA Constitutional Court and ordinary courts have been guided by international human rights law since the establishment of the constitutional order in 1994. One of the earliest milestone court cases in this regard, pertaining to the constitutionality of the death penalty, is *S v Makwanyane and Mchunu*, 1995 (3) SA 391 (CC) where the President of the Constitutional Court ruled:

*In the context of section 35(1), public international law would include non-binding as well as binding law... International agreements and customary international law accordingly provide a framework within which [the Bill of Rights] can be evaluated and understood, and for that purpose, decisions of tribunals dealing with comparable instruments, such as the United Nations Committee on Human rights, ... in appropriate cases, reports of specialised agencies such as the International Labour Organisation, may provide guidance as to the correct interpretation of particular provisions of [the Bill of Rights].*

It is thus evident that applicable and relevant international conventions, declarations and standards should be considered when interpreting the application of fundamental rights in the Bill within different contexts. Another example of international law relevant to the protection of the HE lecturer’s human rights is the 1981 African Charter on Human and Peoples’ Rights (ACHPR), developed for the protection of the human rights and basic freedoms of people living on the African Continent (ACHPR, 2014). The ACHPR was ratified by South Africa in 1996, thereby giving

credence to the protection of collective rights such as the rights to development and self-determination (Dugard, 2000:262). This implies that HE lecturers also have the right to form collective groups through, for example, workplace forums or unions in order to negotiate for issues such as salary increases or better working conditions, or to expect of their employers to provide opportunities for professional and personal development within their working environment.

Figure 2.1, pillar C, illustrates the fundamental rights pertaining to all SA citizens that are, according to Section 8 of the Constitution, also binding on the legislature, the executive, the judiciary and all organs of state (Figure 2.1, pillar D). These rights do not apply in an absolute sense but may be limited in terms of Section 36 of the Constitution, if the limitation is reasonable and justifiable, adhering to the constitutional values of human dignity, equality and freedom. The rights in the Bill are enforceable since the courts exercise control to ensure that they are correctly observed. Sections 8(3) and 39(2) also state that rules of the common law may be developed by the courts to limit a right, provided that the limitation is in accordance with section 36(1). Currie and De Waal (2015:166) and Rossouw (2010:28) are of the opinion that the fair limitation on a right requires an exceptionally strong motivation and should serve a justifiable purpose not otherwise achievable and should therefore be employed with due diligence.

Although all the rights contained in the Bill (except for section 28 pertaining to the rights of the child) are obviously also relevant to the protection and behavioural regulation of every lecturer in his/her personal capacity, here follows a discussion of those rights contained in the Bill that are particularly relevant to the answering of a part of research sub-question 1: How do South African national and institutional sources of law provide for the regulation of teaching-related accountability and expected conduct, and the protection of the rights and security of HE lecturers?

## **2.4 FUNDAMENTAL HUMAN RIGHTS FOR THE ACCOUNTABILITY AND SECURITY OF THE HIGHER EDUCATION LECTURER**

Nieuwenhuis *et al.* (2007:25) indicate that humans are naturally entitled to certain rights not because government invented them, but simply by virtue of being human. These rights are inalienable and considered universal to humanity, irrespective of citizenship, ethnicity, gender, age or any other considerations. This means that a country's legal system must ensure that its citizens can enjoy these rights without hindrance, for example the right to life, to human dignity and security of the person. Human rights and fundamental rights are often used interchangeably, but in essence the last-mentioned refers to public freedoms more specifically. These are the rights guaranteed to citizens of a particular country as a matter of fundamental law. Fundamental law is defined as "*the basic law and principles contained in federal and state constitutions that direct and regulate the manner in which government is exercised*" (The Free Dictionary, 2014). Whereas

human rights are universal rights implied by one's status as a human being, fundamental rights are those rights that a government is contractually obliged to protect, as for example, per a constitutional bill of rights (e.g. political, legal, cultural and labour rights) (Nieuwenhuis *et al.*, 2007:39).

In light of the aforementioned, here follows a discussion of those fundamental human rights contained in the Bill of Rights pertaining specifically to the accountability and security of the HE lecturer, in no particular order of importance. Where relevant, an effort is made to include examples of applicable international conventions, declarations and standards that should be considered when interpreting the application of a right. Also, references are included of possible infringements on these rights within the HE environment. It is important to note that these rights, as with all rights contained in the Bill, afford lecturers certain protections and thus inform their security, but they also have the responsibility to recognise that others in their workplace, including students, colleagues and managers, have the same rights that have to be respected and upheld.

### **2.4.1 The right to equality**

In *S v Makwanyane and Mchunu*, 1995 (3) SA 391 (CC) the following statement is relevant to this discussion:

*All Constitutions seek to articulate, with differing degrees of intensity and detail, the shared aspirations of a nation, the values which bind its people, and which discipline its government and its national institutions; the basic premises upon which judicial, legislative and executive power is wielded; the constitutional limits and conditions upon which that power is to be exercised;...*

In this regard, the SA Constitution is clear on the founding principle of equality, thus informing all other provisions of the said Constitution (Figure 2.1, pillar B). Furthermore, section 9 of the Constitution upholds the fundamental right of every SA citizen to equality before the law, indicating the right to equal protection and benefit of the law, full and equal enjoyment of all rights and freedoms and the right to take legislative action and other measures to be protected against unfair discrimination. Section 9(4) states clearly that "*national legislation must be enacted to prevent or prohibit unfair discrimination.*" Legislation specifically promulgated to regulate equality in general, thereby giving effect to this provision by binding the state and all persons, is the Promotion of Equality and Prevention of Unfair Discrimination Act (4/2000). The Employment Equity Act (55/1998) specifically regulates discrimination in the workplace (§3.3.4), which implies that HE lecturers are able to appeal to national legislation for assurance of the prevention of any form of unfair discrimination within their professional context.

International law ratified by South Africa clearly provides for protection of the right to equality and non-discrimination. Nieuwenhuis *et al.* (2007:31) indicate that, as a fundamental rule of international law, and therefore relevant to the legal framework for lecturer security, article 2 of the Universal Declaration of Human Rights (1948) states:

*Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status...*

In addition, according to Dugard (2000:248), South Africa ratified the International Convention on the Elimination of all forms of Racial Discrimination in 1998, thereby committing to “*condemn racial discrimination and undertake to eliminate it by all appropriate means*” (article 2) and to afford “*effective protection and remedies against acts of racial discrimination*” (article 6). Also, in 1995, South Africa ratified the Convention on the Elimination of all forms of Discrimination against Women, thereby ensuring legal protection for the equal rights of women in all spheres of life (Dugard, 2000:249).

It is essential to distinguish between fair and unfair discrimination before an individual, therefore also a lecturer, attempts to make a case for an infringement on the right to equality. In this regard, Dupper (2004:3) emphasises the distinction between substantive and formal equality where formal equality refers to “*sameness of treatment*” indicating that the law must treat individuals in exactly the same manner irrespective of their circumstances. In contrast, substantive equality requires that special circumstances be taken into account in dealing with certain individuals or groups, as is the case with the implementation of affirmative action to address past forms of discrimination – also at HE level.

Section 9(3) of the Constitution specifies the grounds for unfair discrimination, namely race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture language and birth. In cases of supposed discrimination, it should therefore first be determined on what grounds the discrimination has occurred, and thereafter whether the discrimination amounts to unfair discrimination that will impinge the human dignity of an individual. Unfairness will be presumed, unless the contrary is proven by a respondent (Bray, 2000a:49).

Malherbe and Beckmann (2003:35) are of the opinion that individuals can be treated differently for valid reasons and that section 9 does not prohibit fair discrimination, whereas unfair discrimination is viewed as an infringement on the right to equality. In *Prinsloo v Van der Linde*, 1997 (3) SA 1012 (CC) the Constitutional Court defined unfair discrimination as any form of comparable unequal behaviour or treatment impacting negatively on the human dignity of a person. Section 9

should therefore always be read in conjunction with section 10 of the Constitution, namely the right to human dignity (§2.4.2).

Section 9(1) of the Constitution together with post-apartheid labour legislation, specifically the prohibition against unfair discrimination in the Employment Equity Act (55/1998) (§3.3.4) and similar provisions in the Promotion of Equality and Prevention of Unfair Discrimination Act (4/2000) (§3.3.4), set a clear framework to obviate unfair discrimination in employment practices and to distinguish permissible discrimination from impermissible discrimination (Horwitz, Browning, Jain & Steenkamp, 2002:1108). All the relevant sections of legislation therefore need to be taken into account when investigating a case of supposed unfair discrimination in the employment environment. Furthermore, it is notable that section 13 of the Promotion of Equality and Prevention of Unfair Discrimination Act (4/2000) indicates that the burden of proof for the fact that unfair discrimination did not occur, lies with the respondent (e.g. the HE institution) and not with the individual (e.g. the lecturer as claimant) supposedly discriminated against.

As an example of a possible infringement on the right to equality in the HE environment, one of the objectives of the transformation in the SA HE environment after the democratic Government of National Unity came into power in 1994, was to address the issues of equality in access and success for students and improving staff equity for those who were disadvantaged during the apartheid years (Mafumo, 2011:1553). As already discussed in section 1.1, equality in student access to HE resulted in a call for massification, with its considerable consequences for the work of the HE lecturer (§6.2). With regards to staff equity, section 6(1) of the National Plan for Higher Education (NPHE) (CEPD, 2001) states distinctly that HE institutions will be “*expected to develop employment equity plans with clear targets for rectifying race and gender inequities*”.

Furthermore, one of the intentions with the implementation of the NPHE was to:

*support a democratic ethos and a culture of human rights through educational programmes and practices conducive to critical discourse and creative thinking, cultural tolerance, and a common commitment to a humane, non-racist and non-sexist social order.*

By implication it is thus expected of institutions to also transform institutional cultures to indicate their commitment to eradicate racism and sexism.

In terms of the HE lecturer’s fundamental right to equality, any such discrimination may therefore give rise to legal action. Currie and De Waal (2015:248) add that public or private companies and institutions may be required by legislation to develop information campaigns and present action plans with internal mechanisms whereby equality in all its forms is promoted and unfair discrimination can be addressed.

From the above it is thus evident that the right to equality forms an integral part of the existing juridical foundation for lecturer accountability to enhance security, and that this right should not only be protected at national level, but also at institutional level (§3.4.2).

### **2.4.2 The right to human dignity**

As with equality, human dignity is one of the central values of the SA Constitution (Figure 2.1, pillar B). According to Currie and De Waal (2015:250), together with the right to life, human dignity is possibly *the pre-eminent* constitutional value informing the content of all other rights, inclusive of social and economic rights entrenched in the Constitution. They consider human dignity to be the source of the right to freedom and physical integrity and the basis for the rights to equality and freedom of expression. This implies that the violation of many other rights also constitutes an infringement on the right to human dignity.

Human dignity as value is further promoted by the recognition thereof as an *inherent* right to be both respected and protected in section 10 of the Constitution. Humans are thus born with dignity – it is not a quality that one has to deserve and it cannot be lost. The constitutional protection of human dignity requires the acknowledgement of the worth of every individual as a member of society (Oosthuizen, Rossouw & De Wet, 2011:23). Within the HE environment, the protection of the human dignity of the lecturer is therefore just as important as the protection of the dignity and worth of the student and other HE stakeholders.

According to McCrudden (2008:655), the Universal Declaration on Human Rights (UDHR) popularised the use of *dignity* in human rights discourses. He argues that there is no common understanding of what dignity requires within or across jurisdictions: “*The meaning of dignity is therefore context-specific and plays an important role in the development of human rights adjudication*”. Article 1 of the UDHR (UNGA, 1948) lays the foundation for the importance of human dignity as protected in the SA Bill of Rights: “*All human beings are born free and equal in dignity and rights*”. It is also evident in the phrasing of this article that human dignity and human rights are undeniably linked. In the case of *S v Makwanyane and Mchunu*, 1995 (3) SA 391 (CC) the Constitutional Court acknowledged the interrelatedness of human dignity with other human rights:

*Recognising a right to dignity is an acknowledgment of the intrinsic worth of human beings: human beings are entitled to be treated as worthy of respect and concern. This right therefore is the foundation of many of the other rights that are specifically entrenched in...[the Bill of Rights].*

Dugard (2000:62) correctly indicates that international law can be invoked in support of, for example, the unconstitutionality of legislation where any form of infringement on human dignity is

suspected. He cites the case of *Azapo v President of the Republic of South Africa*, 1996 (4) SA 671 (CC) where “*the applicants used the Geneva Convention of 1949 to convince the court to prosecute individuals who are responsible for gross human rights violations, thereby revoking the possibility of providing such individuals with amnesty*”.

Dupper and Garbers (2004:35) contends that the fairness of discrimination that encroaches on the human dignity of an individual is based on a distinction between differentiation, discrimination and unfair discrimination. In this regard he cites the finding of the Constitutional Court in the case of *Harksen v Lane NO & Others*, 1998 (1) SA 300 (CC):

*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.... If the differentiation has been found to have been on a specified ground, then unfairness will be presumed.*

The above citation is more evidence that an infringement on other fundamental human rights necessarily also infringes on the right to the human dignity of an individual. Nieuwenhuis *et al.* (2007:177) contend that the possibility of an infringement on or violation of the human dignity of an individual is present in any type of relationship, but even more so where an unequal relationship exists, such as is the case between a lecturer and a student, or a lecturer and institutional or faculty managers. It is thus obvious that the right to human dignity underpins the existing juridical foundation for lecturer accountability to enhance security in the workplace.

### **2.4.3 The right to freedom and security of the person**

In section 12 of the Constitution the right to freedom and security of the person is combined with a right to bodily and psychological integrity (Figure 2.1, pillar C). This specific right thus speaks directly to the physical and psychological security of the HE lecturer. As pertinent to the workplace of the lecturer, section 12(1c) states that this right includes “*to be free from all forms of violence from either public or private sources*”, and section 12(1e) unequivocally indicates that no one is to be “*treated or punished in a cruel, inhuman or degrading way*”. The lecturer therefore has the right to a safe and secure working environment that is free of violence, harassment, degrading or intimidating behaviours. In the context of this analysis, the right to psychological integrity is particularly relevant. Currie and De Waal (2015:288) argue that psychological “*integrity encompasses ideas regarding self-determination and autonomy*” and that “*the right to control over one’s body includes control over one’s mind.*” In this sense the right to psychological integrity is

closely related to the right to equality and fair treatment and an infringement on this right will invariably affect an individual's human dignity.

As an example of the right to psychological integrity within the context of the labour environment, Rosen, Chang, Johnson and Levy (2009:202, 203) are of the opinion that an employment relationship encompasses not only social, physical and work-related elements, but also a psychological contract that refers to employees' perceptions with regards to what they believe was explicitly or implicitly promised to them by their employer. Should the employer thus not deliver on these perceived promises, the employee will regard such behaviour as a breach of the psychological contract. Such a breach will result in a perceived threat to individual psychological integrity. Jackson (2014:51) also asserts that employers are increasingly expected to "*provide a workplace that is not only physically safe but also psychologically safe*". A psychologically healthy and safe workplace is viewed as one where psychological risk factors are effectively managed to actively promote and protect the psychological well-being of employees (CSA Group, 2013:1; Department of Commerce, 2014:3). Psychological health and safety in the employment environment are positively correlated to factors such as reduced interpersonal conflict, fewer grievances and less negativity in the workplace, as well as the improvement of employee engagement, productivity and innovation (CSA Group, 2013:1; Department of Commerce, 2014:3).

Closely related to the right to security of the person, is the provision in section 24 of the Constitution, stipulating that "*everyone has the right to an environment that is not harmful to their health or well-being*". This speaks directly to the conditions of employment that should be addressed in the employment contract (§3.4.3). As already discussed in the conceptual framework to this study (§1.4.4), it is the responsibility of the employer to provide its employees with a safe and healthy working environment and to provide for general well-being to ensure adequate opportunities for them to do their work to the best of their abilities. The results of a study by Rothmann, Barkhuizen and Tytherleigh (2008:417) where they investigated the relationship between lecturer job demands, burnout and ill health in a SA university, indicate that increased job demands coupled with a lack of resources (needed for personal and professional growth, social support as well as for the attainment of organisational goals) are strong predictors of burnout, leading to both physical and psychological ill health. As was envisaged, the elements of support and psychological health were prevalent during the lecturer interviews where lecturer security was explored (§8.4).

Over the past decade research in HE worldwide has increasingly pointed towards excessive workload of academics and resulting burnout and various physical and psychological health issues (Taris, Schreurs & Van Iersel-Van Silfhout, 2001; Gillespie, Walsh, Winefields, Dua & Stough, 2001; Winefield, Gillespie, Stough, Hapuarachchi & Boyd, 2003; Rothmann *et al.*, 2008; Kinman &

Court, 2010; Watts & Robertson, 2011). The issue of workload was thus also addressed by the empirical study (§8.4.2.6). In addition to excessive workload as a threat to security, human dignity can come under threat in any relationship where the possibility exists for one individual to treat another with contempt, thereby also undermining that individual's right to psychological integrity and feelings of self-worth (Malherbe & Beckmann, 2003:38). Lecturers are, for example, entitled to respect from their students in order to effectively perform their teaching-related professional duties. In *McConnell v Howard University* 818 F.2d 58 (1987), the federal appellate court in the US set aside the termination of a professor of mathematics who appealed the termination of his employment contract after he refused to teach a class until the university either removed or appropriately disciplined a student who repeatedly disrupted his class. The opinion of the court that set aside the termination was:

*One who is assigned to teach must have some semblance of control over the classroom. If control is lost, learning invariably will be obstructed and the teacher will be unable to fulfil a professional responsibility.*

This court decision is indicative of a requirement for effective teaching in university classrooms all over the world. Institutional protection of lecturers' right to physical and psychological health and safety in their work environment is thus highly applicable to the juridical foundation for lecturer accountability with a view to enhance security.

Section 8(2) of the Constitution states with regard to the application of the Bill of Rights that “a provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable...”. This refers to direct horizontal application whereby not only government is subject to protect and respect the fundamental rights of all SA citizens, but individuals and juristic persons are expected to uphold the rights of other individuals (Currie & De Waal, 2015:31). Section 12 of the Bill of Rights entrenches the rights to safety and security of individuals. When applied within the HE environment, section 12 could thus be called upon to protect lecturers from different forms of abuse and threats to physical or psychological security imposed by government, employers (e.g. HE institutions), students or colleagues. HE lecturers must thus be protected from any form of treatment that can be described as inhuman or degrading, implying also an infringement on the core values of a democratic society (§2.2). It is possible, for example, that threats to the physical or psychological security of a lecturer, either from students, colleagues or managers, can lead to self-questioning with regards to his or her professionalism, which might lead to a decrease in work performance and a loss of psychological integrity in the workplace. But noteworthy is the fact that lecturers are likewise also accountable, in so far as it is within their power, to protect and uphold the physical and psychological security of other individuals in the HE environment.

#### 2.4.4 The right to freedom of expression

Section 16 of the Constitution protects freedom of expression with certain limitations where such expressions (e.g. hate speech, incitement to violence) may infringe on the entrenched values of the Constitution. Specifically pertinent to the HE lecturer and the nature of his or her accountability and security are the rights to academic freedom and freedom of scientific research [section 16(d)]. According to the CHE (2005:33), “*the principle of academic freedom stems in part from the internationally recognised right to education enshrined in Article 26 of the 1948 Universal Declaration of Human Rights, and the 1966 International Covenant on Economic, Social and Cultural Rights.*”

Currie and De Waal (2015:352) state that this right applies to “*any academic enterprise*”, inclusive of but not limited to institutions of higher learning. It is important to note that the right to academic freedom is vested in the academics and not in the institution, and that this right has at its core “*the right of the individual to do research, to publish and to disseminate learning through teaching*” (Currie & De Waal, 2015:352). Interesting is the fact that Friedman and Edigheji (2006:8) emphasise that academic freedom also includes the right of a student to study the qualifications of his choice. Although every right in the Bill of Rights is subject to certain limitations and thus not absolute (section 36 of the Constitution), section 7(2) indicates that all rights must be respected, protected and promoted by government. Therefore, for an infringement of academic freedom to be justified, it should be reasonable and to the benefit of an open and democratic society. The CHE (2005:14) underscores the above assertion when they explain that “*the key issue for the current practice of academic freedom is how to define and strengthen internal accountability, bearing in mind the growing pressure for forms of external accountability*”.

In section 1.23 of the White Paper on HE (CHE, 1997:12), academic freedom implies:

*the absence of outside interference, censure or obstacles in the pursuit and practice of academic work. It is a precondition for critical, experimental and creative thought and therefore for the advancement of intellectual inquiry and knowledge.*

The above description emphasises the right of academics to pursue the construction of new knowledge and truth through inquiry and to teach such knowledge without institutional or state hindrance or fear of punishment so long as it does not infringe on the entrenched values of the Constitution. Du Toit (2007:2) concurs when he refers to academic freedom of lecturers as a prerequisite for dissemination of teaching and research by scholarly peers, and growth in research and teaching development in any academic discipline.

The relationship between the South African government and the HE sector is set out in the White Paper on HE (CHE, 1997) and is given legal content by the Higher Education Act (101/1997)

(§3.2.3). The governance system of the SA HE sector is one of state supervision, as opposed to one of state control or of state interference (CHE, 2005:6). The three different types of HE governance systems as explained in the CHE report are illustrated in Table 2.1. The SA government steers transformation in the HE sector not only via the promulgation of HE legislation, but also via other sources, notably the Education White papers, of which the White Paper for Post-School Education and Training 3 (DHET, 2013) is the most recent.

**Table 2.1: Higher Education Governance systems**

STATE CONTROL	STATE INTERFERENCE	STATE SUPERVISION/STEERING
The HE system is created and funded by the state and mainly controlled by either politics or bureaucracy.	Characterised by a weakly integrated HE system without systematic control or intervention policy. HE institutions become vehicles for the development path of the state and low levels of trust and accountability prevail.	State assurance of sustainable academic quality and accountability in HE through national policy frameworks and continuous monitoring of the achievement of policy objectives.
Example: HE sector of France	Example: HE sector under the apartheid-regime of South Africa	Example: HE sectors of SA, USA, UK, Canada, Australia and the Netherlands

State supervision as governance system is furthermore consistent with the principles of the SA Constitution in that

*..all organs of state (whether these be government departments, or any institution exercising a public power or performing a public function) must co-operate with one another in mutual trust and good faith. Accordingly, in the higher education sphere, co-operative governance advocated that while different interests exist and contestation is inevitable, governance should enable co-operative rather than conflicted negotiation of these differences (CHE, 2005:6).*

Therefore, while the national Department of Higher Education and Training delegates the authority over inputs and use of resources to HE institutions, they require diligent transparency and accountability for outputs. Furthermore, the state recognises and respects academic freedom as a right of academics, but demands transformation of HE in the areas of planning, funding and programme quality. In essence, the state should thus not prescribe to universities what may or may not be researched and taught but should provide financial and organisational aid that are necessary for academics to exercise the right to academic freedom and scientific research (Roberts, 2006). In return, academics, as responsible citizens, should be internally accountable for the choice of research topics and teaching outcomes and content so as to ensure that these are to the benefit of HE stakeholders and societal development (Southall & Cobbing, 2001).

In this sense academic freedom and institutional autonomy are interrelated and seldom discussed in isolation in any HE debate. Section 1.24 of the Education White Paper 3 on HE (CHE, 1997:12) defines institutional autonomy as follows:

*The principle of institutional autonomy refers to a high degree of self-regulation and administrative independence with respect to student admissions, curriculum, methods of teaching and assessment, research, establishment of academic regulations and the internal management of resources generated from private and public sources.*

It is thus evident from the above citation that institutional autonomy refers to a form of self-governance, yet the White Paper emphasises that such autonomy must not be misused “*for resisting democratic change or in defence of mismanagement.*” Therefore institutional autonomy is linked to the demands of public accountability.

It should be noted that over the past decade there have been concerns that, in the current over-regulated HE environment, the nature of government involvement in SA HE is slowly moving away from state supervision to state interference (CHE, 2005:iv). Such interference can have a negative effect on the constitutional right to academic freedom and to institutional autonomy. Du Toit (2000:78) indicates that a threat to the academic’s right to academic freedom is not always external in nature (from state interference mainly due to stringent policy and funding mechanisms), but can also come from internal sources (practices of university communities and their misconception of what academic freedom entails). Both external and internal threats to the right of academic freedom can therefore impinge on the security of the HE lecturer. The threat to academic freedom of lecturers is furthermore not restricted to the SA HE environment due to its relevance as a constitutional right, but also a global concern as further discussed in section 6.2.3. The issue of academic freedom and the extent to which it is still protected in the HE environment formed part of the empirical investigation of which the results are reported in section 8.4.1.3.

#### **2.4.5 The right to fair labour practices**

The SA Constitution is one of a variety of legal sources that regulate labour relations in South Africa. Other sources relevant to this study include general labour legislation (§3.2), the common law (§1.4.1.1), individual employment contracts (§3.4.3), collective agreements (§3.4.3), labour court decisions, international labour standards (§3.3.1) and applicable jurisprudence of foreign labour courts (Rossouw, 2010:19).

With regards to international law and standards as legal sources for labour relations in South Africa, Ferreira (2012:142) concurs when he states that “*the government is forced by international standards to legislate on the minimum terms and conditions of employment and the protection of the health and safety of the workforce*”. Dugard (2000:246) explains that the International

Covenant on Economic, Social and Cultural Rights protects, amongst others, the rights to “*the enjoyment of just and favourable conditions of work – including fair wages and safe and healthy working conditions*” (article 7) and “*form and join trade unions*” (article 8). Both of these rights find application in the SA Constitution.

In terms of section 23 of the Constitution, all SA citizens, thus inclusive of HE lecturers, have the right to fair labour practices. According to Currie and De Waal (2015:475), the Constitutional Court has decreed that employees who seek relief for an infringement on this right, must first turn to the provisions of national labour legislation, and for arbitration by either the CCMA or a bargaining council. Examples of such general labour provisions, also at the disposal of the lecturer (§3.2) are:

- A framework for fair labour practices, as laid out in the Basic Conditions of Employment Act (BCEA) (75/1997), inclusive of the regulation of fair working hours, employee leave, the termination of employment, and basic job and payment requirements;
- Chapter 2 of the Employment Equity Act (EEA) (55/1998) which stipulates the prohibition of unfair discrimination while Chapter 5(c) regulates the protection of employee rights;
- Schedule 8 of the Labour Relations Act (LRA) (66/1995), namely the Code of Good Practice, giving legislative form to the right to fair labour practices when stipulating the protection of SA citizens against unfair dismissal (Bhorat & Cheadle, 2009:27); and
- The Promotion of Equality and Prevention of Unfair Discrimination Act (4/2000) which aims to prevent and prohibit unfair discrimination and harassment on the grounds of race, gender, sexual orientation and disability.

It is thus evident in the reading of the above that sections 9, 10, 12 and 18 of the Constitution, namely the right to equality, human dignity, the right to freedom and security of the person, and the right to freedom of association are also pertinent to any discussion on labour relations. Ferreira (2012:142) explains that when an employer-employee relationship is “*governed by common law in the absence of labour legislation, there is not sufficient protection for employees and crucial concepts such as fairness and equity are not provided for.*” It is therefore of the essence and logical that the existing juridical foundation for accountability to enhance security of HE lecturers takes the provisions of national labour legislation into account (§3.3).

Further evidence that constitutional values and different fundamental human rights are important to the regulation of employer-employee relations is stated in the purpose of the LRA (66/1995), as amended in the Labour Relations Amendment Act (6/2014) to replace the original reference to section 27 of the Interim Constitution, with section 23 of the SA Constitution:

- 1) *The purpose of this Act is to advance economic development, social justice, labour peace and the democratisation of the workplace by fulfilling the primary objects of this Act, which are:*

- a) *to give effect to and regulate the fundamental rights conferred by section 23 of the Constitution;*
- b) *to give effect to obligations incurred by the Republic as a member state of the International Labour Organisation;*
- c) *to provide a framework within which employees and their trade unions, employers and employers' organisations can:*
  - i. *collectively bargain to determine wages, terms and conditions of employment and other matters of mutual interest; ...*

Section 1(c) of the LRA (66/1995) as quoted above, points to section 23(2) of the Constitution, indicating that everyone, thus also the HE lecturer, has the right to “*form and join a trade union; to participate in the activities and programmes of a trade union; and to strike.*” It also points to section 17 of the Constitution wherein the rights to assemble, to demonstrate, to picket and to present petitions in a peaceful manner, are protected. Any form of protest action is regulated and limited by the provisions of Chapter IV, sections 64 and 65, of the LRA, and a strike in compliance with those provisions qualifies as a protected strike. According to Currie and De Waal (2015:378), “*freedom of assembly creates the space both to speak and to be heard*”. By implication the HE lecturer may participate in an authorised picket if the purpose of such an action is the peaceful demonstration in support of a protected strike. Although the LRA does not legally protect all forms of protest action, when such action aims to advance socio-economic interests of employees, it will be protected provided that the prescribed procedures in the LRA were followed by the trade unions involved (Currie & De Waal, 2015:495).

Section 1(d) and Chapter III of the LRA (66/1995) promote the right to engage in orderly collective bargaining, the participation of the employee in decision-making and the effective resolution of labour disputes. This also points to section 18 of the Constitution, namely the right of employers and employees to freedom of association, a right that is further qualified in the different labour laws. Rossouw (2010:105) makes it clear that for collective bargaining to be successful, all involved parties must demonstrate willingness to negotiate and cooperate in a peaceful manner while observing the necessary procedural rules. Rossouw (2010:113) also notes that collective agreements are regarded as carrying more weight than related statutes as well as provisions of an employment contract and are thus an important bargaining tool for the HE lecturer when questioning the fairness of labour practices. The LRA provides for a clear framework within which SA HE lecturers, via their trade unions, can collectively bargain with employers to adjust wages, terms and conditions of employment and other matters of interest to the employer-employee relationship.

Once again the relevance of the employment contract should be noted in that it should contain the essential conditions of the labour relationship and the duties and the obligations of the employer and the employee. Labour legislation furthermore serves to ensure that constitutional conditions are provided for (Ferreira, 2012:141, 152). Institutional employment contracts are discussed in section 3.4.3 and the importance of the contract of employment for regulation of responsibilities was also relevant as a point of discussion during the interviews with participants in the empirical study of which the results are reported in section 8.3.3.

#### **2.4.6 The right to just administrative action**

Section 33 of the Constitution, the right to just administrative action that is “*lawful, reasonable and procedurally fair*”, ensures that administrators or officials in any branch of government make decisions in a constitutionally fair manner, thereby ensuring that the powers of government are vested in the Constitution and that all decisions are in accordance with the constitutional provisions. Currie and De Waal (2015:644) explain that the entrenchment of administrative law in the Constitution is due to a history of “*abuse of governmental power*” during the pre-1994 apartheid regime. During that time, the rules of administrative law did not serve to protect the fundamental human rights of individuals from the abuse of administrative power by the government. Many of the principles of administrative law originated from court decisions over the years, as Rossouw (2010:35) indicates when he explains that administrative actions that are deemed lawful, reasonable and procedurally fair, are grounded in the common law rules of natural justice (e.g. the *audi alteram partem principle*) which aim to promote justice between subjects.

In the new democratic dispensation, the power of the courts to review administrative action does not come directly from the common law, but from the constitutionally-mandated Promotion of Administrative Justice Act (PAJA) (3/2000) and from the Constitution itself (Hoexter, 2007:16, 27), namely section 33(1), the right to ‘*administrative action that is lawful, reasonable and procedurally fair*’; section 33(2), the right to written reasons for administrative decisions; and section 33(3), which provides that legislation ‘*must be enacted to give effect to these rights*’. The PAJA forms the statutory basis for the judicial review of administrative actions by providing for the rights, duties and remedies thereof (Currie & De Waal, 2015:646).

Administrative law should protect individuals and organisations against the misuse of administrative power by bodies that exercise public powers or perform public functions, and should promote procedural fairness while protecting the public interest (Hoexter, 2007:2). The Department of Public Services Administration (DPSA, 2009) explains that administrators perform the day to day work of government departments at all levels. Pertaining to HE, the Council on Higher Education (CHE) and the South African Qualifications Authority (SAQA) are examples of HE administrators. When a decision is taken by any of the said bodies that can negatively affect

the rights of an individual, it is labelled as unjust administrative action and is covered by the PAJA. In addition, “*administrative action is not something performed only and inevitably by members of the public administration.... actions performed by private enterprises are also capable as qualifying as administrative actions provided those actions have a public character...*” (Hoexter, 2007:6).

As part of general Administrative Law, the Promotion of Administrative Justice Act (3/2000) (*hereafter referred to only as the PAJA*) aims to realise the vision of an open, transparent and accountable system of public administration that is fair and just, giving effect to the constitutional right to just administrative action, simultaneously constraining governmental and other forms of public power. Of importance is the definition of “*empowering provision*” in section 1(vi) of the PAJA where the lawfulness of the administrative action is measured against “*a law, a rule of common law, customary law, or an agreement, instrument or other document in terms of which an administrative action was purportedly taken.*” Should any administrative action be contrary to any of the mentioned legal instruments, statutes or documents, it will be deemed unlawful and may be set aside by a labour court (section 6 of the PAJA). Apart from relevant national legislation and common law principles, the provisions in an employment contract of a HE lecturer as well as institutional employment policies and rules (§3.4.2) can also serve as empowering provisions to determine the lawfulness of administrative action in the HE environment.

Sections 3 and 4 of the PAJA set out the specific conditions under which administrators must operate, which leave them limited freedom in decision-making. According to the DPSA (2009) the PAJA prescribes that all administrators must:

- *follow fair procedure when making a decision and clearly explain any decisions taken;*
- *allow relevant parties to voice their opinion before making any decision that might affect their rights;*
- *inform people about any redress mechanisms in their department. If there is no internal appeal system, they must tell citizens of their right to ask the courts to review the decision; and*
- *tell people that they have the right to ask for the reasons for any decision taken to be given to them in writing.*

Should a HE lecturer therefore disagree with a decision taken by an administrator, written reasons for the decision can be requested. These reasons have to be adequate and to the satisfaction of the lecturer and in accordance with the relevant empowering provisions. If the lecturer is still dissatisfied, an internal appeal procedure must be followed, or, in the absence of such a procedure or after exhausting all available internal appeals or possible remedies, the complainant can approach the courts for judicial review (DPSA, 2009).

As the most important source of administrative law, Chapters 3 to 7 of the Constitution establish agencies and administrative structures to control and limit the exercise of public power by national, provincial and municipal bodies. Section 195 of the Constitution contains the basic values and principles governing public administration in South Africa:

*(1) Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:*

- a) A high standard of professional ethics must be promoted and maintained.*
- b) Efficient, economic and effective use of resources must be promoted.*
- c) Public administration must be development-oriented.*
- d) Services must be provided impartially, fairly, equitably and without bias.*
- e) People's needs must be responded to, and the public must be encouraged to participate in policy-making.*
- f) Transparency must be fostered by providing the public with timely, accessible and accurate information.*
- g) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.*
- h) Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.*

*(2) The above principles apply to:*

- a) administration in every sphere of government;*
- b) organs of state; and*
- c) public enterprises.*

The above principles place emphasis on the need for accountability and transparency as relevant to this study and to the HE environment as they apply to public enterprises such as SA universities. Davies (1999:29) explains that the competence to deal with HE issues resides solely in the national sphere with no provincial representation. The Minister of HE is advised by the CHE while the composition and functions of the CHE are regulated by the Higher Education Act (101/1997). The HE Act also provides for the establishment and governance of public and private HE institutions and is subject to constitutional provisions, also in terms of administrative actions. The said Act and other relevant national HE legislation are discussed in section 3.2.

An example of a possible infringement on the right to just administrative action in the HE environment is cited by Adv. Johan Kruger (2013), the Director of the Centre for Constitutional Rights, when he refers to the content of a lecture by Jeremy Gauntlett at the University of

Johannesburg, arguing that certain provisions of the HE Amendment Act (21/2011) are unconstitutional and infringe the constitutional rights to academic freedom and fair procedure. *“Gauntlett asserts that the Act is vague as ‘numerous provisions of the Amendment Act confer an unfettered discretion on the Minister, especially those providing for the appointment of an administrator’.”*

In section 7 of the said Act the Minister is allowed to intervene in the governance and management of HE institutions by issuing a directive to the university council if, in the Minister's opinion, *“the council has acted unfairly or in a discriminatory or inequitable way towards a person to whom it owes a duty”*. Of great concern is the fact that it is stated that should the council fail to comply with the ministerial directive, the *“Minister must dissolve the council and replace it with an administrator with extensive powers - regardless of the nature or extent of the Minister's directive, or the council's reasons or defence for failing to adhere to the letter of such directive”*. Such a directive would ensure that all power - management, governance and administration – will be vested in the appointed administrator. Furthermore, the Act was promulgated without due consultation with HE stakeholders such as Higher Education South Africa (HESA) (representing all 23 Vice-Chancellors of South African universities) or the CHE. In conclusion it is stated that *“taking control of a university's governance and management structures without considering constitutional imperatives can certainly not be an end in itself or even a means to an end”* (Kruger, 2013).

On national level the HE environment is partly controlled by the Department of Higher Education and Training (DHET) and on institutional level by appointed institutional dignitaries acting in the institutional and public interest. Therefore the administrative actions of the DHET and all institutional administrators are also subject to uphold the principles of administrative law. It should be noted that, contrary to educators in public schools, HE lecturers are not government employees but are in the employ of particular HE institutions. By implication the institution as employer of the lecturer, being in an authoritative position, is under a legal obligation to act in a lawful, fair and reasonable manner in the employment relationship. The HE lecturer, on the other hand, has the right to expect written reasons when subjected to administrative decisions, has the right of access to information from an employer to protect any of his rights, and has the right to a fair public hearing when involved in a disciplinary process. The right to just administrative action is therefore pertinent to the juridical foundation for lecturer accountability to enhance security.

## **2.5 THE CONSTITUTIONAL RIGHTS FRAMEWORK AS FOUNDATION FOR THE SECURITY OF THE LECTURER**

All lecturers who work within the SA HE environment are protected by the provisions of the SA Constitution and the fundamental human rights contained in the Bill of Rights. As discussed in the

previous section, the most prominent fundamental rights that inform the juridical foundation for lecturer accountability to enhance lecturer security are: the rights to equality, human dignity, security of the person, freedom of expression, right to fair labour practices and just administrative action. The subsequent section is a brief overview of the limited number of views that could be obtained from literature with regards to the general measure of rights protection and subsequent security that lecturers worldwide experience in their working environment. Of note is the fact that the search for literature on lecturer rights and security was overly dominated by results pertaining to debates surrounding the issue of academic freedom. The remaining search results were linked to the key employment rights relevant to lecturers in their working environment, and specifically their minimum conditions of employment, e.g. the employer's legal duty to provide the lecturer with a written employment contract stating work hours, leave entitlements, pay and benefits, and terms of employment. These issues are addressed in the analyses of SA labour legislation (§3.3).

According to Kinman and Court (2010:424), lecturers need support, inclusive of appropriate encouragement and respect, from university management and from their peers, in order to experience security in their working environment. Such support will enhance levels of psychological well-being, commitment to job performance and job satisfaction. Yet, Morley (2003:5) asserts that over past decades universities have become “*sites of social anxiety and fear*” where trust in professional conduct has eroded, risk has increased and academics seem to have lost much of their autonomy, authority and academic freedom. There seems to be a focus on governmental over-regulation and increased accountability in the HE environment worldwide (§5.3). In a comparative study across countries, Shin and Jung (2014:610) found that academic job stress and resultant dissatisfaction are associated to factors such as pressure for publication, poor remuneration, dis-empowerment, loss of academic freedom, deteriorating work conditions and excessive workloads. Nearly two decades ago, Enders and Teichler (1997:347-348) uttered similar concerns:

*although the functions of the academic profession are becoming more important given the “scientification” of society and the expansion of highly qualified labour... this increasing importance is accompanied by a downgrading of the academic profession, visible in increasing financial constraints of higher education institutions, growing pressures of accountability, and relative loss of high reputation and privileged status.*

Such notions of increased accountability generate strong arguments for the right to academic freedom of HE lecturers already discussed in section 2.4.4. Poskanzer (2002:69) cites a former law professor in the US, Felix Frankfurter, who firmly supports the independence of lecturers from external or governmental constraint or intervention in intellectual endeavours when he suggests entitlement to four essential freedoms in the academic environment: “*to determine for itself on*

*academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.”* Who may teach and who may be admitted to study, point towards institutional functions, but the content and methods of teaching points directly to the work of HE lecturers and their right to academic freedom.

Du Toit (2013a:43) maintains that while academic freedom is indeed recognised as a constitutional right in South Africa, there has not been one case brought before the Constitutional Court to determine its authority or significance. Basically, the interpretation of this right has thus far been left up to individuals or institutions, giving rise to much debate. Du Toit (2013a:44) holds that academic freedom as a constitutional right has over time thus been translated into a duty to exercise this right to the good of society. In this regard Poskanzer (2002:2) warns that:

*If our colleges and universities are to fulfil the great tasks we set for them, such as...equipping students with the information and skills needed to lead meaningful lives... faculty who will take the lead in accomplishing these tasks will require enormous intellectual and didactic latitude – what is commonly termed academic freedom.*

The above citation of Poskanzer, though uttered in American HE context, is as relevant to the discussion on lecturer rights in the SA HE environment. Poskanzer (2002:3) is of the opinion that an infringement on, or restriction of the intellectual actions of lecturers, either by external laws or by internal institutional policy or rules with the force of law, will harm not only the concerned lecturer, but also the institution itself and society as a whole. Yet the right to academic freedom is under threat, and the negative impact thereof on lecturer security in the loss of autonomy is inevitable.

Similar to lecturers in the SA context who are entitled to fair labour practices, Kinman and Court (2010:413) indicate that HE institutions in the UK are obligated to provide workplaces to academics that “*meet the minimum standards recommended by the national Health and Safety Executive.*” Yet despite the requirements of this body, Kinman and Court (2010:415-416) maintain that the fragmented and increasingly more diverse roles of the lecturer, high workload and corresponding increase in working hours cause conflict between the work and home life of lecturers, negatively affecting their psychological well-being. They add that workplace stress due to heavy workload, rising job demands, loss of autonomy, lack of support from peers and managers, mismanagement of organisational change, and vague role clarity should be considered serious health and safety issues and should therefore be “*measured and managed like any other workplace hazard*”. This state of affairs leaves the impression that lecturers are not adequately protected in terms of health and safety standards and do not experience high degrees of psychological security in their working environment.

Although SA lecturers are thus in principle protected by the provisions of the Constitution, the actual protection of these rights in practice is questionable in light of the above perspectives.

Whether the situation in the SA HE context differs from the views expressed above was further explored in the empirical investigation of this study with a view to find evidence of lecturer security within the constitutional rights framework (§8.4.1.1).

## **2.6 SUMMARY OF CHAPTER**

In this chapter it was established that the provisions of the SA Constitution (108/1996), and more specifically the Bill of Rights, personify South Africa's modern democracy and set out the legal rules whereby the country must be governed. In section 3 of the Constitution it is stated that all SA citizens are "*equally entitled to the rights, privileges and benefits of citizenship*"; but with those rights and privileges come the expectation that every citizen will fulfil certain duties and responsibilities.

All role players in the HE system, including the DHET, institutional administrators and managers, lecturers and students, are bound to account for the enactment of these rights, the respect of the rights of others, as well as the actions or lack of action which might infringe on those rights. The values and rights entrenched in the Constitution therefore permeate the juridical foundation for the accountability and security of the HE lecturer. Since the rule of law guides the behaviour of people in the SA societal context, it stands to reason that, within their professional capacity, HE lecturers are not only protected by, but also subject to and accountable for upholding the provisions of the SA Constitution and subsequent legislation relevant within the HE environment.

In the study of the fundamental human rights protected by the SA Constitution, the following rights contained in the Bill of Rights were discussed as they are specifically pertinent to the accountability and security of the HE lecturer: the rights to equality (section 9), human dignity (section 10), freedom and security of person (section 12), freedom of expression (section 16), fair labour practices (section 23), freedom of association (section 18) and just administrative action (section 29). A productive and secure HE environment is only possible if the values and rights entrenched in the SA Constitution are observed and lived as part of a HE institutional culture. Unfortunately it seems that in practice the enactment of these rights do not always come to the fore.

In the subsequent chapter relevant national and institutional legal determinants of lecturer accountability and security are analysed and discussed.

## CHAPTER 3:

# NATIONAL AND INSTITUTIONAL LEGAL DETERMINANTS FOR LECTURER ACCOUNTABILITY AND SECURITY IN SOUTH AFRICA

### 3.1 INTRODUCTION

The purpose of this chapter is to develop a conceptualisation of SA national and institutional legal determinants that may contribute towards the delimitation of the accountability of HE lecturers. The purpose of such a conceptualisation is to determine whether these determinants provide an adequate juridical foundation for accountability and subsequent legal security of HE lecturers in their particular work environment. The conclusions drawn from the analysis of legal sources in this chapter, together with the constitutional rights framework established in Chapter 2, should provide the answer to research sub-question 1: How do South African national and institutional sources of law provide for the regulation of the teaching-related accountability and expected conduct, and the rights protection and security of HE lecturers?

In the analysis that follows, relevant national and institutional legal determinants of accountability in HE are investigated with a focus on relevant legislation in the spheres of HE and labour law, as well as institutional policies or regulations, employment contracts and codes of conduct. Relevant case law is factored into the discussion where valuable as a means of elucidation.

### 3.2 RELEVANT NATIONAL STATUTES: HIGHER EDUCATION LEGISLATION

#### 3.2.1 Introduction

In the South African HE Act (101/1997), as amended in the Higher Education Amendment Act (39/2008), HE refers to “*all learning programmes leading to a qualification that meets the requirements of the HEQF.*” The Higher Education Qualifications Framework (HEQF) is defined as “*the policy on Higher Education determined and published by the Minister in terms of section 3; and referred to in section 7(b) of the National Qualifications Framework Act as the sub-framework for Higher Education.*” In December 2012 the HEQF was replaced by the amended Higher Education Qualifications Sub-Framework (HEQSF) (DHET, 2012) although the HE Act has not yet been amended to incorporate this change at the time of completion of this study. The HEQSF stipulates the requirements for all nationally recognised qualifications (§3.2.5).

HE can only be provided by HE institutions registered as such by the CHE. The provisioning of HE in South Africa by the end of 2012 (Hemis database) is illustrated in Table 3.1 (DHET, 2014:2). Two new public HE institutions were established in 2014, which means that the total number of HE public institutions have risen to 25, although there are not yet any statistics available in terms of

student or staff numbers. Furthermore, the focus of this study is on public HE while private HE provisioning is only mentioned in Table 3.1 for the sake of a more complete picture of the SA HE landscape.

**Table 3.1: Overview of Higher Education institutions in South Africa**

	Public HE Institutions	Private HE Institutions	Total
Number of institutions	25	119	142
Number of enrolled students	953 373	97 487	1 050 860
Number of staff	48 340	Not available	Inconclusive

As further elucidated in section 7.4 where the selection of the SA research sites for the empirical study of this thesis is motivated, thirteen of the twenty five SA universities are classified as Traditional Universities, six as Comprehensive Universities, and six as Universities of Technology (CHE, 2013:ii-v; DHET, 2014:5).

Legislation particular to the HE environment contains the central national legal principles that govern the activities of HE institutions and stakeholders. As discussed in previous paragraphs, Currie and De Waal (2015:8) emphasise that the SA Constitution “*must inform the way legislation is drafted by the legislatures and interpreted by the courts and the way the courts develop the common law*”. Section 43(a) of the Constitution states that the legislative authority of the national sphere of government is vested in Parliament, consisting of the National Assembly and the National Council of Provinces. Currie and De Waal (2015:8), Davies (1999:29) and Roos, Oosthuizen and Smit (2009b:60) note that only Parliament may legislate in the functional area of HE, while general public education is one of the functional areas listed in Schedule 4 of the Constitution, indicating that legislative competence is vested in both parliamentary and provincial legislatures.

Although the right to education as provided for in section 29 of the SA Constitution refers to basic education, Royal-Dawson (2013:345) notes that human rights law in international context also includes the right to HE (e.g. in instruments such as the UDHR and UNESCO’s Convention against discrimination in Education and Recommendation concerning the Status of Higher Education Teaching Personnel). The Conventions or Recommendations in these international instruments have not yet been ratified by South Africa as Member State and are therefore not legally enforceable, but the inclusion of the right to HE in these documents underscores the importance attributed to the place of HE provisioning in societal and economic progress of any country.

### 3.2.2 General background and context

The following section focuses on an analysis of HE-specific legislation promulgated to regulate the HE environment in South Africa. In order to present a complete picture of the SA HE landscape, a cursory analysis of those subordinate regulatory documents as published by the quality council of the SA HE sector, the CHE, is included in this discussion.

Since 1994, a number of government documents and frameworks have been published to articulate the vision for transformation of the HE sector. The most prominent of these are the Education White Paper 3: a programme for the transformation of HE (CHE, 1997), the National Plan for HE in South Africa (CEPD, 2001) and the recently published White Paper for Post-school Education and Training (DHET, 2013).

Education White Paper 3 (CHE, 1997) was published soon after the abolishment of apartheid to provide a framework for the transformative agenda in the planning, governing and funding of the HE system as a single national coordinated system to overcome the inequality and inefficiency that characterised the system during the apartheid era (CHE, 1997:3). In essence, the initial transformative agenda required substantial changes in government funding of HE; transformed institutional governance; increased access via more flexible curricula and modes of delivery for students of all races and genders, inclusive of disabled and mature individuals; greater responsiveness to the needs and interests of society; and policy changes to reconceptualise the relationships between government and HE, and between society, HE stakeholders and HE institutions (CHE, 1997:10). The principles that were included to guide the process of transformation were equity and redress, democratisation, development, academic quality, effectiveness and efficiency, academic freedom as precondition for critical and creative intellectual inquiry, institutional autonomy and greater public accountability (CHE, 1997:13). This document also articulated the establishment of a national qualifications framework (NQF) for the standardisation of qualification offerings across all HE institutions (CHE, 1997:28). Of importance to the aims of this study is the fact that even in the guidelines for transformation at institutional level, no mention is made of the responsibilities and subsequent accountability required of HE lecturers.

The National Plan for HE (CEPD, 2001) was released in 2001 by the then Ministry of Education in response to the policy goals set out in the CHE's Education White Paper 3. The primary aims of the National Plan (CEPD, 2001:6) were to ensure that:

- *the higher education system achieves the transformation objectives set out in the White Paper and is responsive to societal interests and needs;*
- *there is coherence with regard to the provision of higher education at the national level;*

- *limited resources are used efficiently and effectively and there is accountability for the expenditure of public funds; and*
- *the quality of academic programmes, including teaching and research, is improved across the system.*

Similar to the aims and content of the Education White Paper 3, the 2001 National Plan does not include any guiding principles with regards to the rights, responsibilities or expected conduct of HE lecturers. Rather, the plan focuses on national labour market and student enrolment trends and benchmarks for graduation rates, achievement of equity and diversity and the restructuring of the institutional landscape of the HE system.

The most recent White Paper for Post-school Education and Training (DHET, 2013:xi) sets out the type of post-school system envisaged to be achieved by 2030. The main policy objectives as set out in this document do not differ greatly from those of the 2001 National Plan for HE, but the post-school system encompasses more than the HE sector and includes the college system, universities and community colleges. The focus of the White Paper (DHET, 2013:4) is still on the building of *“a fair, equitable, non-racial, non-sexist and democratic South Africa; a single, coordinated post-school education and training system with expanded access, improved quality and increased diversity of provision, a system that is responsive to the needs of individual citizens, employers in both public and private sectors, and broader societal and developmental objectives.”* There is, however, more emphasis on vocational and continuing education and training, the addressing of training needs of people with disabilities, open learning through diverse modes of provision, and a closer linkage between education and the workplace (DHET, 2013: xiii-xvi).

Included as one of the concerns in the HE sector, is the staffing of universities. In this regard the following statement is made: *“A policy will be developed, focusing on the need to recruit and retain academics, ensuring that academic careers are attractive, assisting academics to improve their qualifications, improving conditions of service, and attracting academics from other countries where necessary”* (DHET, 2013:xiv). The DHET (2013:35) acknowledges that there has been a rapid expansion of enrolments in the university sector without a corresponding expansion in the number of academics, resulting in unrealistic teaching loads and high student-to-staff ratios that need to be addressed to improve employment conditions of academics. Furthermore, in theory the DHET (2013:36) makes a commitment to improve support for the development of lecturers’ teaching skills, to provide better financial assistance for academics to improve their qualifications, and to develop an award system for excellence in teaching. Although evidence of such initiatives are yet to be seen, these bode well for the employment prospects of lecturers with a focus on teaching excellence and touch on the aims of this study in that such directives may enhance the security of HE lecturers in their teaching-related work.

According to Hay and Monnapula-Mapesela (2009:7), it is the responsibility of Government to ensure, via the development and implementation of effective and relevant legislation, that the allocation of HE funding is in line with the purposes that Government expects it to achieve. Furthermore, registered HE institutions must perform to expectation and deliver graduates who can contribute towards the socio-economic demands of the different SA communities served by those institutions. In light of such great responsibility, relevant HE-specific legislation promulgated by Parliament since the commencement of the new democratic dispensation after 1994, is subsequently discussed.

### **3.2.3 The Higher Education Act**

In the preamble of the HE Act (101/1997) (*hereafter only referred to as the HE Act*) it is stated that the said Act aims to:

*Establish a single co-ordinated HE system which promotes co-operative governance and provides for programme-based HE; restructure and transform programmes and institutions to respond better to the human resource, economic and development needs of the Republic; redress past discrimination and ensure representivity and equal access; ... promote the values which underlie an open and democratic society based on human dignity, equality and freedom; respect freedom of religion, belief and opinion; respect and encourage democracy, academic freedom, freedom of speech and expression, creativity, scholarship and research; pursue excellence, promote the full realisation of the potential of every student and employee, tolerance of ideas and appreciation of diversity;... contribute to the advancement of all forms of knowledge and scholarship, ... and for HE institutions to enjoy freedom and autonomy in their relationship with the State within the context of public accountability and the national need for advanced skills and scientific knowledge.*

From this excerpt it is clear that in the drafting of the HE Act, the purpose of legislative regulation of the HE environment focused on the enactment of the underlying values, principles and rights as entrenched in the Constitution. The Act clearly makes provision for a unified national system of HE in South Africa and places control over public universities under the executive control of the Minister of Higher Education. There is a focus on transformation and redress to ensure that HE provision will be of such a standard so as to ensure international comparability while answering to the specific societal needs of the country and its people. The Act mainly contains provisions for establishing, registering, governing and managing HE institutions in South Africa.

Chapter 2 of the HE Act is dedicated to the establishment, composition and functions of the CHE. The core functions of the CHE are to advise the Minister of Higher Education and Training on all HE matters, monitor national and international trends in the HE system and assure and promote

the quality of HE. Its mission focuses on transformation, equity, social justice and quality in HE in response to the intellectual, ethical and human resource challenges of a democratic society.

In Chapters 3 and 4 of the HE Act the provisions for the establishment and governance of public HE institutions are stipulated. The necessary institutional governance structures are indicated in section 26 and in section 27(1) it is stated that the “*council of a public Higher Education institution must govern the public Higher Education institution, subject to this Act and the institutional statute*”. Section 27(4) determines that such a council must be representative of the institutional stakeholders and consist of:

*(a) the principal (chairperson of the institutional senate); (b) the vice-principal or vice-principals; (c) not more than five persons appointed by the Minister; (d) members of the senate elected by the senate; (e) academic employees of the public Higher Education institution, elected by such employees; (f) students of the public Higher Education institution, elected by the students' representative council; (g) employees other than academic employees, elected by such employees of the public Higher Education institution; and (h) such additional persons as may be determined by the institutional statute.*

Although HE lecturers have representation from within the Institutional Council, section 27(6) makes it clear that at least 60% of the members of the Council must be persons who are not employed by, or students of, the HE institution concerned. Of greater importance in terms of representation in governance structures for HE lecturers is the composition of the Institutional Senate, as provided for in section 28, with section 28(4) requiring that “*the majority of members of a senate must be academic employees of the public Higher Education institution concerned*”. The senate “*is accountable to the Council for the academic and research functions of the public Higher Education institution*”.

Section 34 of the HE Act states the general provisions for the appointment of public HE institution employees:

- 1) *The Council of a public Higher Education institution must appoint the employees of the public Higher Education institution.*
- 2) *Notwithstanding subsection (1) the academic employees of the public Higher Education institution must be appointed by the Council after consultation with the Senate.*
- 3) *The Council must determine the conditions of service, disciplinary provisions, privileges and functions of the employees of the public Higher Education institution, subject to the applicable labour law.*

Of specific importance for this study is the fact that these are the only provisions in any SA HE legislation where a reference is made to the employment conditions of HE lecturers. The

requirements in terms of the HE lecturer's responsibilities and expected conduct in professional context are not included in HE-specific legislation but limited to the provisions and rules of either the employment contract or other relevant institutional employment documents. It is assumed that such requirements must therefore be deduced from national labour legislation and the relevant provisions of the Constitution. Applicable labour law is discussed in section 3.3 and the employment contracts of academic employees come under scrutiny in section 3.4.3.

Chapter 5 of the HE Act makes provision for the funding of public HE institutions and the different regulations clearly indicate the manner and extent of governmental control over financial resources in the HE environment. Chapter 6 explains the requirements for the appointment of an independent assessor in cases where serious financial or other maladministration occurs or where the effective functioning of the HE institution is undermined. Chapter 7 of the Act provides for matters pertaining to private HE institutions and is not relevant to this analysis.

Although the HE Act is thus explicit in its regulation of the SA HE system and institutional governance, it is basically silent on any principles with regards to guiding the accountability and security of HE lecturers. It is clear that the focus of the Act is not on the establishment of a set of guidelines for the regulation of the expected conduct and accountability of HE lecturers but rather on the regulation and quality assurance of the system and management of public and private HE institutions. There have been different amendments to the HE Act, for example the HE Amendment Act (39/2008) and the HE Amendment Act (21/2011), but these have been either technical in nature or relevant only to the regulation of the State-Institution relationship.

### **3.2.4 The National Qualifications Framework Act**

In the preamble of the National Qualifications Framework Act (67/2008) (*hereafter only referred to as the NQF Act*) it is stated that "*the advancement and recognition of learning is an essential attribute of a free and democratic nation and a prerequisite for the development and well-being of its citizens*" and that the NQF is recognised as "*the principal instrument through which national education and training qualifications are recognised and quality-assured*". The relevance of this Act for purposes of this study is thus limited, except where its provisions regulate the classification, registration and standards of qualifications that must be developed by lecturers, and conferred by a HE institution as part of its Programme Qualification Mix (PQM). Development of qualification curricula as one of the teaching-related responsibilities of the lecturer is discussed in section 6.3.

In section 5(1) of the NQF Act the objectives of the NQF are explained as to:

- a) *create a single integrated national framework for learning achievements;*
- b) *facilitate access to, and mobility and progression within, education, training and career paths;*

- c) *enhance the quality of education and training;*
- d) *accelerate the redress of past unfair discrimination in education, training and employment opportunities.*

These objectives are once again in keeping with the entrenched values, principles and rights of the SA Constitution. The ultimate aim, though, is the protection and advancement of the HE student and not the regulation of the conduct or responsibilities of the HE lecturer, as indicated by section 5(2): “*The objectives of the NQF are designed to contribute to the full personal development of each learner and the social and economic development of the nation at large*”.

The remaining sections of this Act regulate the responsibilities of the Minister, the South African Qualifications Authority (SAQA) and the different quality councils, of which the CHE oversees quality matters in the HE sector, with regards to the advancement of the achievement of the objectives of the NQF and the responsibility to ensure that the NQF is correctly implemented in a coherent and credible manner.

The NQF Act also assigns the responsibility for the development of the content of level descriptors for each of the NQF levels to SAQA. According to the CHE (2011:11) the SAQA (2012) level descriptors “*identify predictable levels of complexity and knowledge for programmes (whether whole qualifications or not) developed at each level, while also providing for the aims of portability and articulation*”, thereby aiming to standardise the general graduate attributes and competences for qualifications exiting on similar NQF levels nationally. The SAQA level descriptors are of great importance in the development of qualification and module outcomes that form part of the planning and curriculum development responsibilities of the HE lecturer (§6.3.6).

### **3.2.5 The Higher Education Qualifications Sub-Framework**

The Higher Education Qualifications Sub-Framework (HEQSF) (DHET, 2012:6) integrates all possible HE qualifications into the NQF. It is the mechanism employed to ensure coherence of the HE system by specifying the articulation routes between qualifications and the standards required at the exit level of every qualification on the framework. Since the HEQSF “*establishes common parameters and criteria for qualifications design and facilitates the comparability of qualifications across the system*”, it is necessary that every HE lecturer involved with qualification and programme design and development knows and understands the required exit level achievements represented by all HE qualifications.

The only reference to roles and responsibilities in the HEQSF pertains to those of the Minister, the CHE, SAQA and relevant professional bodies (DHET, 2012:7). Once again no specific mention is made of the responsibilities, or accountability, of HE lecturers for the design, development, delivery or assessment of qualifications, but it is accepted that compliance with the requirements of the

HEQSF is implied for qualifications to be formally registered by SAQA for inclusion in an institution's PQM. As further elucidated in section 6.3.6 where the planning and curriculum design responsibilities of the lecturer are discussed, these duties add significantly to lecturer teaching-related workload.

### **3.2.6 The South African Qualifications Authority Act**

The South African Qualifications Authority (SAQA) was originally established by the SAQA Act (58/1995) with a view to “*provide for the development and implementation of a National Qualifications Framework and for this purpose to establish the South African Qualifications Authority; and to provide for matters connected therewith*”. The implementation of this Act had profound ramifications for institutions and academic staff in HE, particularly in terms of the rethinking and redesigning of all HE qualifications, curricula and modules. According to Mapesela and Hay (2005:119) the curriculum restructuring resulted in “*cumbersome procedures and processes, excessive record-keeping generated by the model, and large bureaucratic structures which academics must follow in its implementation*”, with grave implications for additional lecturer workload and resulting impact on lecturer security (§6.2.2). After a thorough NQF review process in 2008, this Act was replaced by the NQF Act (67/2008) as discussed in section 3.2.4. In Chapter 4, section 10 of the NQF Act (67/2008) it is noted that the South African Qualifications Authority “*that existed immediately before the commencement of this Act, continues to exist as a juristic person under the name of the SAQA.*” SAQA is thus still to date responsible for oversight in terms of the development and implementation of the NQF, and the development of the content and regulation of the implementation of the national level descriptors as discussed in section 3.2.4.

### **3.2.7 Summary**

Legislation discussed in section 3.2 is the total number of HE-specific Acts pertaining to the SA HE environment. Results of the analysis of SA HE-specific national legislation for the regulation and governance of activities of universities and their stakeholders provide proof that great strides have been made in the restructuring and transformation of HE institutions and qualifications, enabling both to respond more effectively to the needs of the country in terms of human resources, the economy and overall development, and to redress the inequities of the past. Furthermore, legislative instruments developed over the past two decades have provided for more effective governance of HE institutions and the enhancement of access to, and mobility and progression within the HE education and training sector. In addition, these legal documents have improved the regulation of the quality of programme design and educational outcomes for qualifications across the HE sector.

Although results of the analysis indicate that a number of the constitutional rights of lecturers, e.g. the right to equality, human dignity, academic freedom and protection against discrimination, are theoretically addressed in certain HE subordinate legislative documents such as the DHET White papers and National plans, the analysis also indicates that none of the national instruments contain specific reference to the accountability or expected conduct of HE lecturers in their work environment. While HE legislation regulates the governance and activities of HE institutions in general, as well as the national requirements for qualification standards and access to HE provisioning, the teaching-related accountability of the HE lecturer is not addressed in any national legal source.

The importance of more specific provisions for lecturer accountability and rights protection are emphasised when Smit (2013:301) maintains that despite national requirements for constitutional rights protection, the employment rights of HE lecturers are most often negatively influenced by “*unfair labour practices, unfair discrimination, sexual harassment, and the erosion of academic freedom*”, implying that lecturers do not experience high measures of security in the workplace. In the following section general labour legislation is therefore analysed to determine the nature of regulation of the employment environment of all SA employees, including the HE lecturer.

### **3.3 RELEVANT NATIONAL STATUTES: LABOUR LEGISLATION**

Basson, Christianson, Dekker, Garbers, Le Roux, Mischke and Strydom (2009:10) identify the sources of SA labour law as the SA Constitution (§2.2), labour legislation (§3.3), collective agreements (§3.3.2), common law and the employment contract (§1.4.3 & §3.4.3), and international labour standards. SA labour legislation is discussed within the context of both constitutional and binding international law.

#### **3.3.1 Introduction**

With regards to the labour environment, South Africa’s international law obligations emanate from its membership of the International Labour Organisation (ILO). The ILO (2013) has developed a system of international labour standards with a view to promote “*opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity*”. These labour standards provide for Conventions that are legally binding international treaties if ratified by a member state. The fundamental human rights protected by these Conventions are:

- a) *freedom of association and the effective recognition of the right to collective bargaining;*
- b) *the elimination of all forms of forced or compulsory labour;*
- c) *the effective abolition of child labour; and*
- d) *the elimination of discrimination in respect of employment and occupation (ILO, 2013).*

These Conventions are founded on other international law instruments like the International Covenant on Civil and Political Rights, the International Covenant on Social and Political Rights, and the Universal Declaration of Human Rights (Bhorat & Cheadle, 2009:20-21). Although South Africa has not ratified all the ILO Conventions (a total number of approximately 180), all eight of the fundamental rights Conventions have been ratified (ILO, 2013).

As South Africa is also a member State of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the UNESCO (1997) “*Recommendation concerning the Status of Higher Education Teaching Personnel*” is also of relevance to this study. As this is only a recommendation, thus not a Convention subject to ratification before adherence is required of a member State, it is rather viewed as an international regulatory principle or norm that is recommended for consideration by member States and intended to influence the development of the concerned State’s national laws.

In the preamble to the above-mentioned recommendation, UNESCO (1997:26) maintains that lecturers must be recognised for their “*decisive role in the advancement of higher education, and the importance of their contribution to the development of humanity and modern society*”. Furthermore, UNESCO expresses its uneasiness with regard to “*the vulnerability of the academic community to untoward political pressures which could undermine academic freedom*” (§2.4.4) and their concern with the lowly status of lecturers, an issue that may have an influence on lecturer security, and thus further explored in section 6.2.3 and addressed as part of the empirical study (§8.4.3.4).

One of the guiding principles of the Recommendation concerning the Status of Higher Education Teaching Personnel (UNESCO, 1997:27) maintains that:

*Working conditions for higher-education teaching personnel should be such as will best promote effective teaching, scholarship, research and extension work and enable higher-education teaching personnel to carry out their professional tasks.*

The above-mentioned principle speaks directly to the enhancement of the security of lecturers and relates to the provisions of labour legislation that should regulate the unique working environment of the HE lecturer. The Recommendation concerning the Status of Higher Education Teaching Personnel was valuable to inform the guidelines for an improved juridical foundation for lecturer accountability to enhance lecturer security (§9.3).

In addition to the influence of international law on SA labour legislation, Rossouw (2010:35) points out that the verdicts of the Labour Courts and the Constitutional Court have a direct effect on labour matters. He states that “*the law aims at correct, just and fair interpretation of existing legislation, while court cases take place because of opposing arguments on the basis of the same*

laws.” Therefore, where the courts challenge provisions in existing labour legislation, it may result in the amendment thereof.

In light of the fact that HE-specific national legislation does not provide clear guidelines for the accountability or expected conduct of HE lecturers in their working environment, here follows a discussion of those general labour statutes relevant to the existing juridical foundation for lecturer accountability with a view to enhance security.

### **3.3.2 The Labour Relations Act**

According to the Department of Public Service Administration (DPSA, 2008a), the LRA (66/1995) (*hereafter only referred to as the LRA*):

*sets out the laws that govern labour in South Africa. It is guided by Section 23 of the Constitution, which entrenches the right to fair labour practices and the rights of workers and employers to form organisations for collective bargaining. Together with the Basic Conditions of Employment Act, it also ensures social justice by establishing the rights and duties of employers and employees. It also regulates the organisational rights of trade unions, deals with strikes and lockouts, workplace forums and other ways of resolving disputes. It provides a framework for the resolution of labour disputes through the Commission for Conciliation, Mediation and Arbitration (CCMA), Labour Court and Labour Appeal Court.*

The above citation, a succinct and basic summary of what the LRA entails, is indicative of the importance of this Act for the regulation of a fair employment environment, also for the lecturer. Rossouw (2010:1, 2) explains that labour laws like the LRA and the Basic Conditions of Employment Act (75/1997) are implemented by Government to regulate the relationships between employers and employees, or between groups related to each (i.e. trade unions and employers' organisations). The regulation of these relationships is guided by many of the rights entrenched in the Constitution, amongst others, the rights to equality, human dignity, freedom of association, freedom of trade, occupation and profession, and just administrative action (§2.4).

Chapter 1 of the LRA provides a summary of its overarching aim as the advancement of “*economic development, social justice, labour peace and the democratisation of the workplace*” by effecting and regulating the fundamental rights contained in Section 23 of the Constitution and by providing “*a framework in which employees and their unions, employers and employer associations can bargain collectively to determine wages, terms and conditions of employment and other matters of mutual interest, and can formulate industry policy*”. These objectives are therefore also relevant to the regulation of the employment relationships in the HE environment and the right of HE lecturers to fair labour practices. In essence, the LRA is thus a form of general national legislation that should provide employment security for HE lecturers who are not state employees.

Yet, despite the fact that the provisions of the LRA and other labour legislation should regulate fairness in the HE employment environment, Smit (2013:301) notes that labour disputes in the SA HE environment often entail unfair labour practices concerning the appointments, promotions and dismissals of employees. He cites as an example the case of *Christiansen v University of KwaZulu-Natal* (2006) 12 BALR 1200 (CCMA) where an academic staff member appointed at a newly merged university in a senior lecturer position unsuccessfully applied for an associate professorship. She took the matter to the CCMA with an unfair labour practice claim, charging the interviewing committee with not crediting her with research outputs and other activities she completed before joining the institution concerned, notwithstanding her Head of Department's recommendation for promotion. She won the case and the concerned institution was required to approve her promotion retrospectively to the date on which the appointment would have been made. In her case the national regulation of unfair labour practices proved to be of value.

According to Borhat and Cheadle (2009:25), central to the right to fair labour practices as guaranteed by section 23(1) of the Constitution, is the right not to be unfairly dismissed. They explain that the content of this right stems from ILO convention 158 on the Termination of Employment, and that the LRA specifically gives effect to this right in the SA labour environment. Labour practices that are deemed unfair are stipulated in the LRA in general rules and rights. The contravention of these rules or the infringement of these rights is justiciable by the CCMA, or by accredited bargaining councils or specialised Labour Courts (Ferreira, 2012:142). In this context, Rossouw (2010:131) notes the importance of the distinction between substantive and procedural fairness, both of which are relevant to the upholding of legal rights of the HE lecturer when faced with disciplinary action.

According to the SA Labour Guide (2013), a fair dismissal indicates that the dismissal of an employee is the appropriate action for an employer to implement on the grounds of valid reasons. Both fair reason and fair procedure are provided for in codes of good practice in the LRA and are of great importance to employers when considering the dismissal of an employee, and to arbitrators or judges when considering a dismissal dispute (Bhorat & Cheadle, 2009:23). Any dismissal dispute must first be referred for conciliation by either a bargaining council or the CCMA, where after, should conciliation not be achieved, it can be determined by arbitration or by adjudication, depending on the nature of such a dispute (Bhorat & Cheadle, 2009:45).

Substantive fairness in the context of dismissals is provided for in section 188 of the LRA:

- (1) *A dismissal that is not automatically unfair, is unfair if the employer fails to prove-*
  - (a) *that the reason for dismissal is a fair reason-*
    - (i) *related to the employee's conduct or capacity; or*
    - (ii) *based on the employer's operational requirements; and*

*(b) that the dismissal was effected in accordance with a fair procedure.*

*(2) Any person considering whether or not the reason for dismissal is a fair reason or whether or not the dismissal was effected in accordance with a fair procedure must take into account any relevant code of good practice issued in terms of this Act.*

In terms of (2) above, substantive fairness is regulated by Schedule 8 of the LRA, where guidelines are provided for good practice in disciplinary cases of employees. Consistent with section 188 of the LRA, section 2(2) of the Code of Good Practice: Dismissals, recognises only three circumstances under which a dismissal may be considered fair, namely employee misconduct, incapacity (including poor work performance) and the employer's operational requirements. The SA Labour Guide (2013) indicates that a dismissal effected for any of the given circumstances will not be considered automatically fair by the CCMA should a dispute arise with regards to the fairness of the dismissal. They explain that *“before imposing a sanction of dismissal, the Chairperson of the disciplinary hearing must establish (satisfy himself in his own mind) that a fair procedure has been followed.”* Section 187 of the LRA sets out certain reasons for dismissal that are classified as being automatically unfair, including but not limited to participation in protected strikes, compelling of an employee to accept employer demands, pregnancy, or any form of discriminatory dismissal on grounds such as race, gender, ethnicity, age, religion, language etc. Section 3(3) of the Code of Good Practice: Dismissals, thus states that *“a dismissal is automatically unfair if the reason for the dismissal is one that amounts to an infringement of the fundamental rights of employees and trade unions...”* This is again an indication of the supremacy of the provisions of the SA Constitution. Where misconduct or poor work performance is deemed grounds for dismissal, it seems only fair that the nature of actions that are deemed to be either misconduct or poor work performance, should be clearly stipulated in some form of legal documentation.

As noted in section 1.4.2 where education-specific legislation is discussed, the SACE Code of Professional Ethics for educators in public schools as addendum to the SACE Act (31/2000), is an appropriate example of such a legal document that stipulates what is to be construed as educator misconduct versus acceptable professional and ethical behaviour. It has already been established that HE-specific legislation does not contain any provisions or guidelines for lecturer ethical or professional conduct (§3.2.7), thereby complicating the regulation of their accountability and assurance of their security at national level. Therefore it is expected that such regulation should be stipulated at institutional level (§3.4).

*County Fair Foods (Pty) Ltd v CCMA & others*, 1999 (20) ILJ 1701 (LAC) is an example of a Labour Appeal Court judgement where it is evident that it is expected of the employer to set the expected standards of conduct to determine the fairness of a sanction imposed by an employer:

*It remains part of our law that it lies in the first place within the jurisdiction of the employer to set the standard of conduct to be observed by its employees and determine the sanction with which non-compliance with the standard will be visited; interference therewith is only justified in the case of unreasonableness and unfairness.*

The above quotation is especially of importance in the context of this study for its reference to the importance of stipulated standards of conduct for employees before non-compliance with those standards can be determined. Standards of conduct can also relate to section 187(2)(a) of the LRA which provides that “*a dismissal may be fair if the reason for dismissal is based on an inherent requirement of the particular job*”. For a HE lecturer to be fairly dismissed for no longer being able to satisfy the inherent requirements of his or her job, those inherent requirements need to be clearly stipulated. In the absence of HE-specific national legislation providing such standards of conduct for the lecturer, it is assumed that these standards should be included in institutional policies, codes (§3.4.2 & §3.4.4) or employment contracts (§3.4.3). It is still the viewpoint of this researcher that the inclusion of such standards in national HE-specific legislation will promote the regulation of lecturer accountability and ultimately, lecturer security.

Furthermore, Du Toit (2013b) emphasises that substantive fairness must take two distinctive elements into account, namely the establishment of guilt; and deciding on an appropriate sanction. He explains that it is not the norm for dismissal to occur after a first offence, with the exception of such serious misconduct that a continued employment relationship is impossible. The requirements stated in section 188 of the LRA determine the fairness of a dismissal, irrespective of the merits of a case for dismissal. When determining whether dismissal is the most appropriate sanction, employers must also take into account the personal circumstances of the employee (e.g. length of service, employment history and possible previous disciplinary record) and the circumstances of the infringement itself (Du Toit, 2013b). These stipulations thus also apply to lecturers facing some type of disciplinary action.

Procedurally fair dismissals indicate that the correct process has been followed in the actual dismissal (Rossouw, 2010:131; SA Labour Guide, 2013). Only when it has been established that a fair procedure has been followed in a disciplinary case, can the innocence or guilt of an employee facing dismissal, be determined (SA Labour Guide, 2013). Fair procedure in the case of dismissals is regulated by Section 4 of the Code of Good Practice: Dismissals, of the LRA, which states:

*1) Normally, the employer should conduct an investigation to determine whether there are grounds for dismissal. This does not need to be a formal enquiry. The employer should notify the employee of the allegations using a form and language that the employee can reasonably understand. The employee should be allowed the opportunity to state a case in response to*

*the allegations. The employee should be entitled to a reasonable time to prepare the response and to the assistance of a trade union representative or fellow employee. After the enquiry, the employer should communicate the decision taken, and preferably furnish the employee with written notification of that decision.*

*(3) If the employee is dismissed, the employee should be given the reason for dismissal and reminded of any rights to refer the matter to a council with jurisdiction or to the Commission or to any dispute resolution procedures established in terms of a collective agreement.*

The above stipulations are aligned to the provisions in section 33 of the Bill of Rights, namely the right to *lawful, reasonable and procedurally fair* administrative action (§2.4.6). In the absence of HE-specific legislation that regulates fair dismissals, the general provisions of the LRA in this regard prevail in the SA HE environment. Should a HE lecturer therefore be subjected to any form of unfair dismissal procedures, the lecturer will be entitled to seek legal redress.

As noted in section 2.4.5, the LRA provides for a clear framework within which SA HE lecturers, their trade unions and employers can collectively bargain to adjust wages, terms and conditions of employment and other matters of interest to the employer-employee relationship. A collective agreement thus refers to a written agreement between an employer and a trade union in terms of the determination of conditions of employment of employees belonging to the concerned trade union (Basson *et al.*, 2009:16). Ferreira (2012:142) correctly states that the LRA thus serves to regulate the “*peaceful and orderly conduct of the employment relationship by encouraging collective bargaining and the settlement of disputes through the powers of the forums designed to facilitate these objectives*”. The SA Parastatal and Tertiary Institution’s Union (SAPTU) serves as trade union for four SA universities, namely North-West University, University of Johannesburg, Stellenbosch University and University of Limpopo. SAPTU is politically unaffiliated and its services include salary negotiations, support during disciplinary hearings, CCMA matters and Labour Court cases (SAPTU, 2009). The SA Labour Guide (2013) provides a list of other unions functioning in the SA HE environment as registered trade unions in terms of the LRA, providing similar services to its members:

- Union of Personnel of the University of the Free State (UVPERSU)
- National Education Health and Allied Workers’ Union (Nehawu)
- Academic and Professional Staff of the University of South Africa (APSA-UNISA)
- Academic Staff Association of Wits University (ASAWU)
- Cape Peninsula University Employees Union (CPUEU)
- National Tertiary Education Union (NTEU)
- Tertiary Education National Union of South Africa (TENUSA)
- The University of Cape Town Academics’ Union (UCTAU)

- University of Natal Staff Union (UNSU)
- University of Pretoria Workers Organisation (UPWO)

When faced with disciplinary actions, it is therefore the right of HE lecturers affiliated to any of the above unions to seek their legal advice and support. The empirical study investigated whether lecturers make use of unions for such matters (§8.4.1.5). In addition, Ferreira (2012:143) indicates that Chapter IV of the LRA explains the provisions for and limitations to employees' right to strike while still legally protected against dismissal if their actions adhere to the procedures laid down by the said Act. He notes that employees are not allowed to strike over matters that can be referred to arbitration or presented for adjudication. Chapter V of the LRA further provides a framework for the establishment of workplace forums that consist of elected employee representatives (also non-trade union members) who can then participate in the advancement of employee interests in the workplace. Workplace forums are potentially effective platforms for resolution through consultation rather than collective bargaining, and as such, for the HE lecturer, an alternative platform for joint decision-making on certain employment issues.

It is evident that the protection of the constitutional rights of all employees finds application in the provisions of the LRA and that these provisions are essential in the context of lecturer workplace security. Although the LRA thus provides ample general conditions for fair labour practices, it does not satisfy the search for specific reference to the teaching-related accountability or expected conduct of the HE lecturer.

### **3.3.3 The Basic Conditions of Employment Act**

According to Ferreira (2012:143) the Basic Conditions of Employment Act (75/1997) (*hereafter referred to only as the BCEA*), together with the LRA, forms the central pillar “*of the labour legislative dispensation promulgated in accordance with Section 23(1) of the Constitution*”. He further states that the “*purpose of this Act is to ensure that employees enjoy certain minimum conditions of employment through the creation of secure, equitable and harmonious working relationships*”. It is thus obvious that the provisions of this Act will influence the security experienced by HE lecturers in their working environment.

The BCEA does not lay down minimum wages, but Chapter IV of the said Act does regulate issues pertaining to the nature and calculation of employee remuneration. Badat (2010:26) maintains that in comparison to public and private sector employees with comparable qualifications and expertise to academic staff, SA lecturers are poorly remunerated. He voices concern that this state of affairs causes many academics to seek greener pastures in the public and private sectors, and likewise, hinders potential academics from entering HE from other sectors. Ultimately this is not only detrimental to universities, but also to the SA economy and society as a whole. The only way to

attract professionals to enter the academic profession and to retain outstanding academics will be through a careful revision of remuneration and benefits for lecturers. Lecturers' perspectives on their working conditions and subsequent security as explored during the empirical study are reported in section 8.4.2.

Chapter II of the BCEA stipulates that an employer must regulate the working time of employees with due regard for their health and safety, which includes that under normal circumstances, they may not be expected to work more than 45 hours in a week. Employees may occasionally be expected to work a maximum of 3 hours paid overtime per day, but not more than 10 hours overtime in a week. Rothman *et al.* (2008:405) note that over the past decade academic work has changed dramatically in terms of increased job demands without corresponding increase in the availability of job resources that are essential to reach employment goals. Continual increases in workload requires more working hours and effort which often results in loss of optimism, ill health and eventual burn-out of academics (Rothman *et al.*, 2008:406-408). Furthermore, in a study concluded in the SA public education sector, Rutherford (2009:151) found that two of the main reasons for the psychological insecurity of educators are work overload and the numerous and diverse roles that educators must fulfil. These factors are also relevant to the work of the lecturer in the HE environment (§6.2.1 & §6.2.2). Factors bearing on the psychological health and security of the HE lecturer were also addressed in section 2.4.3 and further investigated during the empirical study (§8.4.3).

The BCEA further serves to regulate minimum conditions for employment issues such as different types and duration of leave (Chapter III), employment termination (Chapter V), and the protection of vulnerable workers such as children from employment exploitation (Chapter VI). Chapter VIII provides for the establishment of basic employment conditions in a specific sector, for which the HE-sector should qualify due to the unique and diverse nature of the work of the HE lecturer. Furthermore, Chapter VII allows that collective agreements as concluded by relevant bargaining councils may differ from the provisions of the Act as long as they do not provide for less protection of the health and safety of employees as stated in the BCEA.

It is evident from the above discussion that the BCEA provides for the protection of the minimum conditions of employment as part of the existing juridical foundation for lecturer accountability and security. It is maintained, however, that national HE-specific conditions of employment for lecturers, that are currently lacking, may enhance their security. This is specifically true for issues pertaining to fair workload and working hours, as well as remuneration.

### 3.3.4 The Employment Equity Act and the Promotion of Equality and Prevention of Unfair Discrimination Act

The Employment Equity Act (55/1998) (*hereafter referred to only as the EEA*) and the Promotion of Equality and Prevention of Unfair Discrimination Act (4/2000) (*hereafter referred to only as the PE-PUDA*) will be discussed jointly, since both were promulgated to give effect to Section 9 of the Constitution (§2.4.1), thus to protect the right of employees to equality in the workplace and to eliminate any form of unfair discrimination. Both these Acts support affirmative action in South Africa and seek to achieve “*demographic transformation and equal opportunity in employment*” (Durrheim, Boettiger, Essack, Maarschalk & Ranchod, 2007:117). Section 2 of the EEA specifically states that the Act aims to achieve equity in the workplace by eliminating unfair discrimination, promoting equal opportunity and fair treatment, while it attempts to “*redress the disadvantages in employment experienced by designated groups*” due to previous discriminatory practices. An infringement on an individual’s right to equality will thus automatically also be recognised as a contravention of human dignity (§2.4.2). Smit (2013:304) emphasises that it is important that “*affirmative action measures should not encroach on the right against unfair discrimination, but should give effect to substantive equality*” and once the equity targets of an organisation have been achieved, “*the principle of preferential treatment should no longer be applied.*”

Chapter II of the EEA prohibits any form of unfair discrimination in any employment policy or practice, thus regulating the conduct of all employers. Fergus and Collier (2014:486) note that this chapter of the EEA has “*the potential to effect change in all workplaces across the country*”, but only if there is a corresponding focus on the promotion of equal employment opportunities. Chapter III promotes equity in the workplace and provides for clear rules for affirmative action. These provisions are also pertinent to the protection of HE lecturers as employees of HE institutions. Ferreira (2012:143) points out that the EEA “*attempts to achieve a diverse workforce that is broadly representative of the people, to promote economic development and efficiency in the workplace and to give effect to the obligations of the Republic as a member of the ILO.*”

Statistics on staffing in the HE sector in 2012 (DHET, 2014:17) indicate that the profile of academic university employees has undergone significant changes in terms of gender and race since 1994, with African employees now comprising 46% of permanent staff, and female staff in lecturing positions standing at 45%. The provisions of the EEA have thus brought about significant changes in the promotion of equal opportunities for all races and genders to find employment in the world of the academe. Durrheim *et al.* (2007:111) maintain that the recent redress of discrimination in HE practice, known as affirmative action, has often involved controversy since one racial group, usually white South African academics, seems to be disadvantaged to the benefit of other racial

groups. Oosthuizen and Naidoo (2010) add that affirmative action has resulted in white employees often fearing “*retribution or revenge from previously disadvantaged groups, loss of standards, punitive taxation and limitation of their career opportunities*”. It seems, however, that African racial groups, the so-called beneficiaries of affirmative action, experience high levels of tension and a certain stigma when associated with such appointments (Durrheim *et al.*, 2007:112; Oosthuizen & Naidoo, 2010). This is one labour issue that will be on the transformation agenda of SA HE for years to come, or at least until such time that “*redress comes to an end*” when the “*equity balance has been restored*” (Smit, 2013:304). Affirmative action or redress thus not only affects the security of the white lecturer (in particular), but also the sense of worth of the black lecturer (in particular).

Also of importance is section 60 of the EEA protecting employees from discrimination by fellow-employees. Section 60(3) distinctly states that whenever the employer fails to take the necessary steps to protect an employee from discrimination by another employee, “*and it is proved that the employee has contravened the relevant provision, the employer must be deemed also to have contravened that provision.*” Thus, such an employer, if he does not act against such conduct when it has been brought to his attention, can indirectly be held liable for such discrimination. Employers can, however, escape such liability if they can demonstrate all rational actions that were taken to try to ensure that the concerned employee would cease with such discriminatory practices (Fergus & Collier, 2014:494).

The duty of the employer to protect the employee against sexual harassment (another element that can affect the security of the lecturer) is an example of a form of discrimination addressed through provisions in the EEA. The case of *Ntsabo v Real Security (CC)*, 2003 24 ILJ 2341 (LC) is a landmark judgement pertaining to this issue. In the said case Ms Ntsabo was subjected to acts of sexual harassment by her supervisor and after complaining, was transferred by management to another site where she was required to work night shifts. Being a single mother, she again complained and was told that if she did not want to work at night, she could quit her job. After giving up her job she sought relief from the Labour Court and was awarded R50 000 to be paid for an automatically unfair dismissal by her former employer. A similar verdict also based on discrimination by an employer, notably that of the Constitutional Court, was that of *Grobler v Naspers & Another*, 2004 5 BLLR 605 (C). In light of such judgements HE lecturers subjected to any form of sexual harassment affecting their psychological security and work performance might have a case against their employer.

Section 24 of the PE-PUDA underscores the above wherein it emphasises that “*all persons have a duty and a responsibility to promote equality*”. Furthermore, the PE-PUDA seeks to address and

eliminate discrimination from society by means of the establishment of appropriate and reasonably inexpensive equality courts that are accessible to all (Pityana, 2002:6).

Section 26 of the PE-PUDA refers specifically to the responsibility of persons operating in the public domain, therefore also the employees of HE institutions, to promote equality by:

- a) *adopting appropriate equality plans, codes, regulatory mechanisms and other appropriate measures for the effective promotion of equality in the spheres of their operation;*
- b) *enforcing and monitoring the enforcement of the equality plans, codes and regulatory mechanisms developed by them; and*
- c) *making regular reports to the relevant monitoring authorities or institutions as may be provided in regulations, where appropriate.*

Following this, section 28 (3)(b) of the PE-PUDA stipulates that it is the responsibility of Government and all institutions performing public functions, therefore also HE institutions, “*to give priority to the elimination of unfair discrimination and the promotion of equality in respect of race, gender and disability.*” HE lecturers who experience any form of discrimination therefore have the force of law behind them to find restitution for such ills.

From the above it is evident that the provisions of the EEA and the PE-PUDA provide ample protection to HE lecturers for their constitutional right to equality and elimination of unfair discrimination and thus form an important part of the existing juridical foundation for lecturer accountability to enhance security. It is envisaged that, similarly, subordinate regulations in this regard will be included in institutional policies as a means of further protection (§3.4.2).

### **3.3.5 The Occupational Health and Safety Act**

Consistent with South Africa’s international law commitments, the provisions of ILO Convention 155 of 1981 (the Occupational Safety and Health Convention) find application in the Occupational Health and Safety Act (85/1993) (*hereafter only referred to as the OHSA*). Although the OHSA is not recognised as a pillar of the labour relations environment, Ferreira (2012:144) describes this Act as “*perhaps the strictest of all the labour statutes*”, providing clear prescriptions concerning health and safety regulations in different employment sectors, industries and professions.

Sections 2 to 6 of the OHSA provide guidelines for the establishment, constitution and functions of the national Advisory Council for Occupational Health and Safety. Although many of the provisions in the OHSA focus on the protection of employees who work in hazardous environments such as where plant and machinery are used, or where potentially harmful substances or articles are manufactured and sold, the general protection of employee health and safety in all other types of workplaces are also addressed and thus relevant to this study. Section 8(1) of the OHSA provides

that “every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees.” Section 9(1) adds that the employer is also responsible for the health and safety of “persons other than those in his employment who may be directly affected by his activities”. University employees as well as students should therefore be assured of a safe and healthy work and study environment that is free of hazards and potential risk of injury.

Maintaining a safe and healthy working environment is, however, not the sole responsibility of the employer. Section 14 of the OHS Act stipulates that every employee must “take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions”. In section 14(c) the employee is also instructed to obey “the health and safety rules and procedures laid down by his employer” and to report unsafe or unhealthy situations as soon as possible. The OHS Act also provides for the establishment of two workplace structures to allow employee involvement in the assessment and improvement of health and safety measures and procedures of their employers, namely health and safety representatives (section 17 & 18) and health and safety committees (section 19). Section 20 is dedicated to the functions of the health and safety committee and sections 21 to 26 provide for general prohibitions and protection against victimisation of employees who report incidents in violation of health and safety regulations. The remaining sections up to section 37 of the OHS Act are dedicated to the designations, authority and functions of health and safety inspectors.

Section 38 provides for offences and penalties related to the Act, thereby clearly indicating that any contravention of the conditions and requirements for health and safety regulations is punishable by law. The provisions of the OHS Act are thus relevant to the security of HE lecturers in that they regulate all health and safety measures related to their work environment.

It stands to reason that there are other labour laws not discussed in this section which are deemed of less importance to the aims of this study. The following laws are only mentioned here to provide for a complete picture of all regulatory labour laws in the SA labour environment: a) The Compensation for Occupational Injuries and Diseases Act (130/1993) of which the provisions aim to ensure that compensation is paid from Government funds to an employee who becomes partially or totally disabled due to workplace activities; b) the Unemployment Insurance Act (30/1996) that regulates benefits to workers after loss of employment due to unforeseen circumstances such as illness or pregnancy; and c) the Skills Development Levies Act (9/1999) that requires of employers to devise strategies for the development of the skills of especially previously disadvantaged employees within the workplace as an active teaching and learning environment (Ferreira, 2012:144).

### **3.3.6 Summary**

This concludes the discussion of SA labour legislation relevant and contributing to the existing juridical foundation for lecturer accountability and security. The aim of this exposition of general SA labour statutes was to identify provisions for lecturer accountability and security that determine the employment conditions and employer-employee relations in the work environment of the lecturer. The results of the analysis of the LRA, the BCEA, the EEA, the PE-PUDA, and the OHS Act provided evidence that the protection of the constitutional rights (§2.4) of all employees, especially the rights to fair labour practices and a safe and healthy working environment, are addressed in the provisions of the said Acts and that those provisions are essential also in the context of lecturer employment rights and workplace security.

Despite the provisions of fair labour practices in the mentioned legislation, adherence to certain of the provisions of general labour legislation in the HE environment seem to be questionable especially in terms of the regulation of a fair workload and adequate remuneration of lecturers, issues that are further investigated in sections 6.2.1 and 6.2.2 and as part of the empirical study (Chapter 8). Furthermore, the provisions of general labour legislation did not satisfy in the search for specific reference to the accountability or expected conduct of the HE lecturer. In search of such references, the necessity for a clear delineation of what lecturer accountability entails, became more evident. The issue of lecturer-specific accountability is therefore explored further in Chapter 5 and also formed part of the empirical investigation of which the results are presented in section 8.3.

## **3.4 INSTITUTIONAL LEGAL DETERMINANTS FOR LECTURER ACCOUNTABILITY AND SECURITY**

In this section the focus shifts to institutional legal determinants that contribute to the existing juridical foundation for the accountability and consequent security of the HE lecturer.

### **3.4.1 Introduction**

This section focuses on the nature of institutional regulation of the accountability and institutional protection of the rights of SA lecturers. Since the emphasis of this study is on the regulation of lecturer accountability and protection of lecturer rights specifically at national level, it should be noted that this section is by no means an attempt to provide an in-depth analysis of institutional legal sources for lecturer accountability or rights protection. The main purpose of this analysis is to determine whether accountability regulation at institutional level, in contrast to national regulation, is more specific in terms of the expectations for lecturer conduct and required teaching-related responsibilities. Furthermore, the analysis aims to understand how constitutional and labour rights as stipulated in national legislation (§2.4 & §3.3) find application in institutional legal sources. The

results of the analysis assisted in the answering of research sub-question 1, namely how South African national and institutional sources of law provide for the regulation of the teaching-related accountability and expected conduct, and the protection of the rights and security of lecturers.

The analysis centres on relevant institutional policies, rules and regulations of the three selected SA research sites (§1.6.3), with emphasis on the regulation and protection of human rights and employment equity, fair labour practices, occupational health and safety, staff development and promotion, and the regulation of just administrative action and employee conduct (§3.4.2). An overview of the nature of available institutional codes of ethical or professional conduct is also included to determine the nature of regulation of, or expectations for, lecturer conduct in the workplace (§3.4.4).

In the absence of national HE and labour regulation of lecturer accountability in their teaching-related work (§3.2.7 & §3.3.6), a sample of lecturer employment contracts was scrutinised to determine whether such accountability is stipulated therein. Poskanzer (2002:143) notes that although many lecturers may have noble aspirations to become teaching scholars at the onset of their careers in HE, institutional strategic objectives will in the end determine how they spend their time and efforts. These objectives are more often aligned with monetary milestones and the reputation of the institution. And since they are remunerated by their institutions, the nature and content of the employment contract will reflect the expectations of their employers, not the aspirations of the academics. The content of the employment contract is therefore also an important institutional legal source for lecturer accountability (§3.4.3).

### **3.4.2 Institutional Policies, Rules and Regulations**

In accordance with section 32 of the HE Act, any university in South Africa is officially established by way of a Statute published as a Government notice in the Government Gazette. The Statutes of the three SA universities selected as research sites make provision for the composition, establishment and functions of the different university governance and management structures (e.g. council, executive committee, institutional forum, senate, and faculty board), as well as for the appointments and official duties of the office bearers of the universities (e.g. chancellor, vice-chancellors, campus rectors, deans, academic and research directors, and registrars).<sup>1</sup>

A university Statute clearly stipulates that it is the responsibility of a university council to develop policy and to establish rules, regulations and mechanisms that will ensure effective institutional management. The Statutes of the mentioned three SA universities include references to the appointment, remuneration, discipline and annual performance evaluations of academic staff but

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<sup>1</sup> Due to ethical constraints for non-disclosure of the sites of research, no bibliographical references are provided for the documents of the three selected universities. The same applies throughout sections 3.4.2 – 3.4.4.

these are of a general nature and do not address specific rights or responsibilities of lecturers. The appointment of staff occurs in accordance with the staffing policies of the respective universities, remuneration is determined by the provisions of the respective remuneration policies, and the general service conditions are determined by university councils and set out in the relevant university employment contracts. Furthermore, lecturers are subject to university disciplinary codes, rules, regulations and disciplinary measures of the respective university councils with regards to misconduct or neglect of duties as specified in the respective institutional rules. In all three of the relevant statutes it is recognised that the university council may enter into agreements with trade unions in order to negotiate service benefits and other related matters in accordance with national labour legislation. This is in keeping with the provisions of the LRA with regards to collective bargaining between employers and trade unions (§3.3.2).

The strategic plan of each of the three universities sets out the key strategic initiatives and goals for its core functions of teaching, research and community service in keeping with national strategic imperatives. In keeping with themes relevant to the scope of this study, without exception these strategic plans identify certain main strategic foci for the core function of university teaching. With reference to students: student enrolment growth; improvement of student retention, through-put rate, and graduate employability. With reference to qualifications: curriculum transformation and qualification alignment to the standards of the HEQSF. With reference to lecturers: the enhancement of the quality of teaching through staff development initiatives and recognition for teaching excellence. Although clear on institutional directives, none of the university strategic plans makes specific mention of lecturer responsibilities or expected conduct in the teaching environment. In the absence of specific guidelines for lecturer accountability in national legislation, the lack thereof also in university strategic plans is all the more noticeable.

Relevant institutional policies and rules (governing all aspects of teaching) are formulated, adopted and enforced to provide guidelines and identify the principles to realise institutional strategic goals, but also to delineate the boundaries for employee decisions and actions, and to protect employee rights (Business Dictionary, 2014b). According to Poskanzer (2002:21) the written institutional rules and regulations must regulate the basic activities of its employees and define “*the legal rights and duties of members of the academic community*”, which have been derived from legally binding institutional policies, in turn derived from applicable national legislation. A summary of the generic types of available policies and rules related to the regulation and protection of the human and labour rights of the three concerned SA institutions is presented in Table 3.2. As is evident from the types of policies and rules indicated in the said table, national legislation in this regard has been adequately enacted in institutional legal sources to ensure avenues available to institutional management and HE employees to address legal issues pertaining to human rights protection and regulation of employment relations. It is acknowledged, though, that the mere existence and

availability of such institutional legal documents do not necessarily guarantee adherence to all their provisions. But it stands to reason that in cases where HE lecturers feel that there is an infringement on any of their constitutional or labour rights, they can turn to the provisions in the concerned institutional policies and rules for restitution.

The protection against and regulation of any form of discrimination, and the protection of human dignity, equal opportunity, occupational health and safety and fair labour practices (mentioned in the overview of national legislation) are addressed in the policies of all three institutions. Furthermore the protection and regulation of the constitutional right of all employees to just administrative action find application in a number of different policies, and all three universities have clear grievance policy guidelines and procedures. In addition, each of the three universities has a disciplinary code and procedure as well as dispute resolution regulations.

In the disciplinary rules and regulations it is clearly stated that every employee and student of the concerned academic community have at the very least those rights and responsibilities that are common to all SA citizens (§2.3). Although individual rights such as freedom of expression and association, right to fair and non-discriminatory treatment, and physical safety and privacy are equally protected for all HE stakeholders, lecturers as university employees are also subject to discipline when they neglect their duties or are proven guilty of any form of misconduct as specified in the concerned university disciplinary rules.

Without exception the disciplinary rules, codes or regulations of the three SA research sites include categorisation of infringements according to the seriousness thereof, procedures for proper disciplinary action, and the appropriate disciplinary measure in cases where a staff member is found guilty of an infringement. Provision for procedural and substantive fairness in university hearings, disciplinary procedures and dismissals as stipulated by common law principles and in national legislation (§2.4.6) are clearly a priority for institutional councils and indicate the weight the SA constitutional rights framework carries in these institutions.

Furthermore, policies provide broad guidelines for the regulation of staff recruitment, remuneration, performance management, promotion, professional development, and allocation of resources. Although it is evident that the institutional management of each of the universities support the provision of and access to professional development opportunities for academic staff members, career planning and participation in such activities remain the primary responsibility of the individual staff member, supported by his or her line manager.

Policies on remuneration and promotion are noticeably vague and merely indicate that both these employment issues are considered by faculty management based on merit and sustainable affordability within the faculty budget. Similarly, resource allocation to provide for appropriate support for lecturers to do their work to the best of their abilities is only mentioned as part of the

responsibility of institutional management. As envisaged, these employment issues, related to the minimum conditions of employment, were further elucidated by the participants in the empirical investigation where the nature of lecturer security was one of the topics of the interviews (§8.4.1.2).

**Table 3.2: A generic list of available Institutional Policies, Rules and Regulations related to the rights and expected conduct of South African lecturers**

TYPE OF LEGAL SOURCE	EXAMPLES OF UNIVERSITY POLICY, RULE OR REGULATION
<b>Policies for the protection of constitutional and labour rights</b>	Human Rights Policy Policy on Employees with Disabilities Occupational Health and Safety Policy HIV/AIDS Policy for Staff and Students Policy on Racism and Racial Discrimination Policy on Fair Labour Practices Sexual Harassment Policy Policy on Gender Equity Policy on Equity and Diversity Policy on gatherings, demonstrations and picketing
<b>Administrative policies</b>	Policy on the Report of Maladministration and Irregularities Policy on Protection of Disclosure Promotion of Access to Information Policy Conflict of Interest Policy Records Management Policy Employee Grievance Policy
<b>Policies on human resources management and staff development</b>	Remuneration Policy Recruitment Policy Training and Development Policy Academic Staff Promotion Policy Performance Management Policy Staff Development Policy
<b>Disciplinary rules or regulations</b>	Disciplinary Code and Procedure Employee Grievance Procedure Mediation and Alternative Dispute Resolution Regulations
<b>Codes of conduct for academic staff (§3.4.4)</b>	Code of Ethics Code of Professional and Ethical Conduct Guidelines for Conduct in the Workplace

In addition to the above, all three universities have policies (e.g. policies on teaching and learning, assessment and moderation, work-integrated learning and programme evaluations) that provide certain broad parameters for decisions within the teaching environment, yet none of these policies offer a delineation of the teaching-related responsibilities of the lecturer that will ensure the enhancement of student learning. Since the quality of teaching is mainly the responsibility of the lecturers employed by the university (§6.2.4), it stands to reason that teaching-related policies should clearly define the expectations for what quality teaching and learning entails, and also provide guidance in terms of lecturer responsibilities that can be enacted in faculty strategic initiatives and subsequent teaching practices at programme and subject level. These policies should be updated at regular intervals to reflect transformation in the HE environment and an institution's dedication to the quality of teaching to promote the quality of student learning (Barrie, Ginns & Prosser, 2005:641).

### **3.4.3 Institutional employment contracts**

Similar to any employee in the SA labour market, lecturers are subject to, but also protected by, general national labour legislation (§3.3). In addition to national legislation, collective agreements between employers and trade unions (and bargaining council agreements), and the provisions of the employment contract are recognised as the main sources of individual employee rights and obligations (Van Niekerk, Christianson, McGregor, Smit & Van Eck, 2008:105). As discussed in section 1.4.3, the employment contract is founded on consensus (mutual agreement) between the contractual parties, and grounded in the principles of the law of contract (Van Niekerk *et al.*, 2008:106). The general principles of the law of contract, breach of contract and contractual liability as relevant to this study, were clarified in section 1.4.3. Based on that clarification, contractual liability in cases of breach of contract between a lecturer and a university can only be determined if the rights, obligations and expected conduct of the lecturer are clearly demarcated and communicated to the lecturer in the employment contract.

Basson *et al.* (2009:46-47) and Du Plessis and Fouché (2006:15) maintain that it is an employer's responsibility to accept the employee into service, to pay appropriate remuneration and to provide a safe and healthy workplace. Furthermore, the employer is responsible for employment conditions that are not only fair, but adhere to the provisions of all relevant national labour legislation, and guidelines for task requirements to assist employees to effectively fulfil their responsibilities (§1.4.3 & §3.3). It is on the last-mentioned employer responsibility that the subsequent discussion focuses.

The results of the analysis of SA HE and labour legislation (§3.2 & §3.3) provided neither guidelines for the expected conduct of the lecturer, nor specification of the teaching-related responsibilities of a lecturer. A logical assumption is that such expectations and responsibilities

would therefore be included in the lecturer employment contract. This assumption is underscored by Poskanzer (2002:19) who maintains that the employment contract of academic staff should establish the rights and obligations of both the HE institution and the lecturer. He describes the contractual relationship as the “*terms under which faculty are appointed and promoted, the conditions under which they will perform their academic duties, and the institution’s expectations about professors’ teaching, research, and service responsibilities.*”

The SA Labour Guide (2014) stipulates that the employment contract has a dual purpose:

- a) *aligned to the provisions of national labour legislation, the employment contract must clearly stipulate what an employee “is entitled to receive in terms of company policy and benefits”; and*
- b) *it should regulate the employee’s conduct since “all company policies and procedures, as well as the disciplinary code, form a part of the employment contract.”*

The above stipulations indicate the protective function of the contract of employment, but also lay the foundation for the accountability of the employee to fulfil the obligations stipulated therein. It is important to note that institutional policies and procedures (§3.4.2), as well as institutional disciplinary codes and codes of conduct (§3.4.4) are deemed to be part of the employment contract (SA Labour Guide, 2014). The employee, in signing the employment contract, is therefore also obligated to adhere to the stipulations in those institutional legal documents.

According to Grogan (2003:31) there are some essential elements that must be present to make this contract valid:

- *the contract must be a voluntary agreement (consensus) between at least two legal parties;*
- *the employee agrees to perform certain specified and/or implied duties;*
- *the employer agrees to pay remuneration to the employee;*
- *there is either a specified or an indefinite period;*
- *the employer gains a qualified right to command the employee as to the manner in which he or she carries out his or her duties.*

Last-mentioned element once again points to the fact that the contract of employment should include guidelines to employees as to the behaviours and duties they can expect to be held accountable for (Beckham, 2005:89). Grogan (2003:54) refers to these guidelines as the required standards of competence to perform the duties expected of the employee. It stands to reason that individuals who accept the post of lecturer to undergraduate students at an academic institution should be “*capable of performing the tasks they agree to perform, and that they will carry them out*

*with reasonable efficiency*” (Grogan, 2003:54). The tasks to be performed, and the standard for efficiency of task performance, should thus be clearly communicated to the employee.

To determine whether a typical employment contract between a lecturer and a university as employer adheres to the expectation of clear guidelines and regulation for lecturer responsibilities and conduct, the content of the employment contracts for permanent academic staff of the three SA research sites, Universities A, B and C, was analysed. The provisions of the academic employment contracts that are common to each of these universities are illustrated in Table 3.3. Each provision is linked to either a regulatory or a protective function for purposes of lecturer accountability or security.

It is evident from the provisions included in Table 3.3 that the standard employment contracts of SA academic staff in permanent positions at the concerned research sites adhere to the general labour requirements as provided for in applicable national labour legislation (§3.3). Furthermore, as is evident from the function of each of the common provisions, the employment contracts fulfil the dual purpose of regulation of lecturer activities, and protection of lecturer rights and benefits that arise from the employment relationship that is established by the agreement. Without exception, each of the scrutinised employment contracts stipulates that the employee, in signing the agreement, also agrees to adhere to the stipulations of all institutional policies, rules, regulations and concerned codes of employee conduct. The expected ethical or professional conduct of the lecturer, though not provided for in national legislation, is thus regulated via institutional codes of conduct (§3.4.4). The results of the analysis of the selection of employment contracts indicate that in all but one element (subsequently discussed), the provisions of the concerned employment agreements fulfil the general requirements for a valid and fair employment contract as explained in the previous sections and in section 1.4.3.

For purposes of this particular study, the one element that was considered lacking in terms of clarity in the university employment contracts was the specification of the teaching-related responsibilities of a lecturer. Although the respective letters of appointment indicate that the lecturer’s responsibilities would encompass certain duties and expectations in the key performance areas of teaching, research, administration and service, such responsibilities or duties remain vague and the standards for effective fulfilment of such responsibilities are not specified. It is therefore the contention of this researcher that the accountability of lecturers involved in undergraduate teaching at the concerned SA research sites cannot be determined through the content and provisions of lecturer employment contracts.

**Table 3.3: Common provisions of the employment contracts of South African permanent academic staff**

Employment provision	Function	References
<b>The letter of appointment</b>	<p>Regulation of main tasks and expectations in terms of key performance areas (teaching, research, administrative and service responsibilities) related to the expertise and abilities of the staff member as explained in the job description, for the duration of the contract</p> <p>Protection of the employee in that the signing of the contract implies that the employee consents to the job requirements in the contract and agrees that the performance of the stated duties is possible and reasonable</p>	<p>Basson <i>et al.</i>, 2009:39-40; Du Plessis &amp; Fouché, 2006:9-10,19; Grogan, 2003:54; Van Niekerk <i>et al.</i>, 2008:106</p>
<b>Adherence to and active promotion of the institutional mission, values and principles as enacted in institutional strategic plans, policies, rules, regulations and codes of conduct</b>	<p>Regulation of lecturer conduct and decisions in the workplace with reference to the requirement of the employee to act in good faith (fiduciary duty – the employee must act in the best interest of the employer)</p>	<p>Basson <i>et al.</i>, 2009:44; Van Niekerk <i>et al.</i>, 2008:88</p>
<b>Probationary requirements and compulsory induction programme</b>	<p>Regulation in terms of determining the appropriateness of the appointment and the lecturer's ability to fulfil the expected responsibilities</p> <p>Protection in that the lecturer is offered the opportunity of professional development and institutional support in the required fields of teaching, research and administration</p>	<p>Basson <i>et al.</i>, 2009:136; Van Niekerk <i>et al.</i>, 2008:260,450; Code of Good Practice, Schedule 8 of the LRA</p>
<b>Annual performance management and reviews</b>	<p>Regulation in terms of adherence to standards of work performance</p> <p>Protection in terms of development and career advancement or promotion opportunities</p>	<p>Van Niekerk <i>et al.</i>, 2008:450</p>
<b>Intellectual property rights, inclusive of copyright, inventions, designs, patents, trademarks and other academic materials</b>	<p>Regulation of ownership of inventions, designs, trademarks and patents developed by staff in the employ of the university</p> <p>Regulation of copyrights of all teaching and assessment materials developed by staff in the employ of the university</p> <p>Protection of copyright and financial benefits for academic staff for development and publication of all research outputs</p>	<p>Daniel &amp; Pauken, 2005:347-349</p>

<b>Work outside of the normal activities and qualifications of the university</b>	Regulation of staff activities that do not form part of the responsibilities of the letter of appointment, but relate to teaching and learning, research or rendering of services	HE-specific employment provision
<b>Confidentiality of information and security</b>	Protection of information of the university Protection of personal information of employees	Du Plessis & Fouché, 2006:20
<b>Conflict of interest (fiduciary duty of the employee)</b>	Regulation of employee conduct to prohibit engagement in other activities in conflict with the employment agreement and disloyal to the employer	Basson <i>et al.</i> , 2009:45; Grogan, 2003:172
<b>Adherence to the university disciplinary code and grievance procedures</b>	Regulation of the conduct and discipline of academic staff Protection via the following of correct procedures for grievances	Basson <i>et al.</i> , 2009:115; Du Plessis & Fouché, 2006:20; Grogan, 2003:59-60,188
<b>Provisions for promotion</b>	Regulation of responsibilities for promotion opportunities Protection of academic staff career advancement opportunities	Basson <i>et al.</i> , 2009:196
<b>Use of university resources</b>	Regulation of academic staff activities (to exercise reasonable care) that require use of any and all resources provided by the university	Du Plessis & Fouché, 2006:20
<b>Conditions of service</b>	In adherence to national labour requirements, protection of academic staff in terms of: <ul style="list-style-type: none"> <li>• Remuneration</li> <li>• Hours of work</li> <li>• Service bonuses</li> <li>• Fringe benefits such as medical aid, retirement fund, group life insurance and study benefits or tuition fees</li> <li>• All types of leave benefits and leave conditions</li> <li>• Occupational health and safety for employees</li> <li>• Provision of necessary resources to effectively complete tasks</li> <li>• Termination of service conditions</li> </ul>	Basson <i>et al.</i> , 2009:39-40, 46-47,56; Grogan, 2003:34-35; Van Niekerk <i>et al.</i> , 2008:110-114; BCEA
<b>Amendments or additions to the employment agreement</b>	Protection of academic staff in terms of mutual consensus to amendments, additions or deletions	Basson <i>et al.</i> , 2009:49

### 3.4.4 Ethical or professional codes of conduct

Each of the three SA universities has a code of ethics or a code of professional conduct that stipulates the accepted conduct of its employees. The codes focus on upholding human dignity and respect for all HE stakeholders, guaranteeing fairness and tolerance in all interactions and ensuring that university employees act in a loyal and trustworthy manner towards their employer. Bray (2005:134) maintains that a code of conduct sets standards for acceptable behaviour and positive discipline, but also deals with negative discipline of unacceptable behaviour and corresponding measures to deal appropriately with incidents of misconduct. The function of the university code of conduct is therefore mainly regulatory, but also serves as protective measure for lecturers against unacceptable conduct of colleagues, and harassment, intimidation or discrimination from university or faculty management. Poisson (2009:13) asserts that a code of conduct enhances the professional status of employees, contributes to quality improvement and helps curb misconduct in the education sector. Noteworthy is, however, that the function of a code of conduct is not to delineate the (in this instance, teaching) responsibilities of a lecturer or to frame his or her accountability, although, as Braxton (2011:6-7) later points out, it can touch upon certain teaching-related duties.

Bray (2005:134) emphasises that only when a code of conduct is consistently implemented and enforced will it promote appropriate behaviour. Moreover, since such a code is viewed as a legal document, it should adhere to relevant constitutional values and a human rights culture. Interestingly, Bray equates the function of a code of conduct with the function of law in society: just as the law embodies acceptable norms, values and rules for a society to be obeyed by all if they want to escape legal measures, the code of conduct of a profession or an institution aims to promote, maintain and enforce appropriate behaviours and censure the conduct of those in breach of the code.

A code of conduct is recognised as a “*set of guidelines produced by public authorities or by professional organisations, which details the set of recognised ethical norms (or values) and professional standards of conduct to which all members of a profession must adhere*” (Poisson, 2009:16). Braxton (2011:3) asserts that norms should function as “*prescriptions for professorial behaviour as a moral compass for stewardship of academic disciplines*”. He defines norms as collective beliefs of a professional group regarding expected conduct to protect concerned stakeholders in any given situation (Braxton, 2011:2). A code of conduct with regards to ethical or professional behaviour of lecturers in the HE environment is therefore a necessity to safeguard both the welfare of students as clients and to provide a protective framework for lecturer actions in their working environment.

In the absence of a professional body for HE lecturers, the above definition of a code of conduct points to the value of such a regulatory document at national level to determine the standards of conduct to which all lecturers at an institution of higher learning should adhere. Adherence to such standards will promote “*a sense of professional identity*” in academic employees, but also facilitate the trust of the general public in the profession itself (Poisson, 2009:16-17). This brings to mind the question of the professional status of the lecturer that receives due attention in section 6.2.3 and also as part of the empirical investigation since professional recognition should have an influence on lecturer security (§8.4.3.4).

Braxton (2011:6, 7) refers to a US qualitative study undertaken by himself and a colleague in 1999 to determine behavioural norms that should not be violated by lecturers in their under-graduate teaching practices. They found the following types of behaviours to be improper and therefore in violation of the expected ethical conduct of lecturers:

- *condescending negativism: the demeaning and improper treatment of students and colleagues;*
- *inattentive planning: lack of planning of course design or teaching activities;*
- *moral immorality: depraved or unprincipled acts by lecturers;*
- *particularistic grading: uneven or preferential treatment of certain students in assessment;*
- *personal disregard: disrespect for needs and sensitivities of students;*
- *inadequate communication: failure to inform students of important course details or expectations or logistical matters; and*
- *uncooperative cynicism: refusal to participate in faculty matters or teaching tasks and display of cynical attitude towards colleagues or teaching.*

Although the above behaviours were identified in an American HE context, it is obvious that the disrespect towards, or harassment or unfair treatment of students and colleagues will be viewed as serious violations in any HE context, again pointing towards the value of a national code of conduct to regulate the behaviour of academic employees of any institution of higher learning.

According to Braxton (2011:21- 22) it is difficult to ascertain the frequency of lecturer misconduct since many cases are handled internally in order to protect the institution’s reputation against negative publicity. To corroborate Braxton’s assertion, an informal interview was conducted with a Human Resources Manager at one of the research sites (University A). The data generated from this interview is reported in Chapter 8. Braxton (2011:22) also emphasises the importance of a professional code of conduct at national level to improve the incidences of public disclosure and thereby the accountability of lecturers in this regard.

### 3.4.5 Summary

Section 3.4 provided the results of the analysis of institutional legal determinants for lecturer accountability and security. The analysis revealed that national labour provisions are adequately enacted in institutional policies and rules to regulate issues pertaining to human rights protection, just administrative action and a fair, equitable and safe employment environment. It was established though, that policies on remuneration, promotion and lecturer support were void of specifics and were therefore identified for further elucidation during the empirical investigation for their possible influence on the security of the lecturer. Furthermore, policies and regulations pertaining specifically to the key performance area of teaching and learning provide only broad recommendations of institutional expectations for the quality of teaching and learning and lack a clear framework for lecturer responsibilities in undergraduate teaching. The employment contracts of lecturers of the three SA universities participating in this study were therefore analysed with a view to determine their contribution towards a delimitation of lecturer responsibilities in undergraduate teaching.

The analysis of lecturer employment contracts indicated that national labour requirements are adequately provided for and that these contracts serve regulatory and protective functions in the HE employment context. Furthermore, whereas the expected ethical and professional conduct of lecturers is not addressed in national HE-specific legislation, it is provided for in institutional codes of conduct. Yet, no evidence could be found of the teaching-related responsibilities of the HE lecturer or the expected standards for the fulfilment of such responsibilities. In the absence of adequate provision for such regulation even at institutional level in the SA HE environment, it was therefore deemed necessary to turn to the international sphere to determine if provision for the teaching-related accountability of lecturers is more clearly defined elsewhere. The Australian perspective on the regulation of teaching-related accountability and subsequent security of lecturers are presented in Chapter 4.

In Chapter 9, the conclusions drawn from the analysis of SA national and institutional legal sources for lecturer accountability and security in Chapter 3, together with the SA constitutional rights framework established in Chapter 2, serve as evidence to answer research sub-question 1: How do South African national and institutional sources of law provide for the regulation of teaching-related accountability and expected conduct, and the rights protection and security of HE lecturers?

## **CHAPTER 4:**

### **RELEVANT INTERNATIONAL LAW: AN AUSTRALIAN PERSPECTIVE**

#### **4.1 INTRODUCTION**

The reason for selecting the Australian HE sector as a worthwhile international comparison for purposes of this study was explained in section 1.6.3. In essence, the fact that the SA Government had previously looked to educational provisioning that had its origins in Australian competency debates (Jansen, 1998:322) to determine its applicability and value for curriculum reform and accountability at school level in SA, provided the impetus to do the same at the HE level in this research. The following exposition of the foundations of the Australian law relating to the national HE and labour contexts is not an attempt to offer an exhaustive overview thereof, but merely to focus the discussion on the accountability regulation, rights and security afforded the Australian lecturer by way of national legislation as compared to what is afforded the SA lecturer. This comparison serves to answer the first part of research sub-question 2: How can a selection of Australian sources of law (and the perspectives of a sample of Australian lecturers) on the teaching-related accountability, expected conduct, and rights of the lecturer inform the guidelines for an improved juridical foundation for accountability to enhance the security of the SA lecturer? The second part of the question is addressed in Chapter 8 where the findings from the empirical analysis are presented.

This chapter is introduced with a general discussion of commonalities and differences in the governance, legal and HE systems of South Africa and Australia (§4.2). Thereafter the focus shifts to the Australian HE context and national legislation regulating the HE environment (§4.3). The final section of the chapter offers a basic comparison of national regulation of the Australian labour environment to that of South Africa as applicable to the labour environment of the lecturer (§4.4). The chapter concludes with the legal provisions that may be of value to the national regulation of accountability of lecturers in the South African HE context (§4.5).

Purely for background and contextual purposes, Table 4.1 provides for a general comparison of the two countries (CIA World Fact book, 2014a; 2014b; Australian Education Network, 2014). The International Statistical Institute (ISI, 2014) recognises Australia as one of the wealthiest developed countries in the world. In contrast, South Africa is still deemed a developing country as is evident from factors indicated in Table 4.1, such as the high birth rate, the high death rate (currently the second highest death rate in the world) and resultant low population growth rate, weak labour force and corresponding lower levels of labour productivity and high unemployment rate (CIA, 2014b; ISI, 2014).

**Table 4.1: Factual comparison between Australia and South Africa**

	AUSTRALIA	SOUTH AFRICA
<b>Total population</b>	22,507,617 (2014 est.)	52,981,991 (July 2013 est.)
<b>Population growth</b>	1.09% (2014 est.)	-0.45% (2013 est.)
<b>Ethnic groups</b>	White 92%, Asian 7%, aboriginal and other 1% (2006 Census)	Black African 79%, white 8.9%, coloured 8.9%, Indian/Asian 2.5% (2001 Census) and other 0.5% (2011 Census)
<b>Birth rate</b>	12.19 births/1000 population (2014 est.)	18.94 births/1000 population (2014 est.)
<b>Death rate</b>	7.07 deaths/1000 population (2014 est.)	17.94 deaths/1000 population (2014 est.)
<b>HIV/AIDS deaths</b>	Fewer than 100 (2009 est.)	235,100 (2012 est.)
<b>Literacy (age 15 and over can read and write)</b>	Total population: 99%	Total population: 83%
<b>Expected age to leave the education system</b>	Total population: 20 years	Total population: 13 years
<b>Labour force</b>	12.44 million (2013 est.) - ±55% of total population	18.54 million (2013 est.) - ± 34% of total population
<b>Unemployed youth (15 - 24 years of age)</b>	11.7% (2013 est.)	51.5% (2013 est.) 6 <sup>th</sup> highest ranking in the world
<b>Unemployment rate</b>	5.7% (2013 est.)	24.9% (2013 est.)
<b>Number of Public Universities</b>	Total: 37 (2013)	Total: 25 (2014)
<b>Legal system</b>	Common law system based on the English model	Mixed legal system of Roman-Dutch civil law, English common law and customary law
<b>Government type</b>	Federal parliamentary democracy, member of the Commonwealth of Nations	Democratic republic and member of the Commonwealth of Nations
<b>Executive branch</b>	Chief of state: Queen of Australia Head of government: Prime Minister; Deputy Prime Minister Cabinet appointed by Prime Minister and nominated persons from among members of Parliament	Chief of state: President Head of government: President; Vice-President Cabinet appointed by the President
<b>Legislative branch</b>	Bicameral Federal Parliament consisting of the Senate and the House of Representatives	Bicameral Parliament consisting of the National Council of Provinces and the National Assembly
<b>Judicial branch</b>	Highest court(s): High Court of Australia; each of the 6 states, 2 territories, and Norfolk Island has a Supreme Court. Subordinate courts at the federal level: Federal Court; Federal Magistrates' Courts of Australia; Family Court Subordinate courts at the state and territory level: Local Court; Magistrates' Courts; District Courts	Highest court(s): Supreme Court of Appeal; Constitutional Court. Subordinate courts: High Courts; Magistrates' Courts; labour courts; land claims courts.

Ferreira (2012:150) emphasises in this regard that “*South Africa’s labour market is not conducive to dynamic employment growth. Labour regulations are not applied effectively and the rigid labour market has contributed to persistently high unemployment rates. Non-transparent regulations, rigid labour laws and crime are disincentives for investors.*” This quote corresponds with the concern noted in section 3.3.6 with regards to the prevalence of unfair labour practices in SA HE despite provisions of national labour legislation.

Noteworthy from Table 4.1 is the fact that, although Australia’s total population is approximately half that of South Africa, the number of public universities that potential students can choose from exceeds those of South Africa by twelve. Interestingly to note from the information in Table 4.1 is that, despite the low expected school-leaving age of the SA population (13 years of age), the average literacy rate, thus of children over the age of 15 years who can read and write, is not far behind that of the Australians, with 83% and 99% respectively (although it is acknowledged that the standard of such literacy may differ greatly in the two countries). This can probably be attributed to the SA education transformation initiatives over the past 20 years with the focus on the constitutional right to education. In terms of a general factual comparison as indicated in Table 4.1, Australia is in a much more favourable economic and social position than South Africa. Here follows a brief discussion of the legal system and the HE and labour legal landscape of Australia, with comparative notes where similarities or differences to the SA context are relevant to this study.

## **4.2 THE AUSTRALIAN CONSTITUTION AND LEGAL SYSTEM**

The nature of the protection of the human and constitutional rights of lecturers is one of the themes central to this study. It was therefore deemed appropriate to compare the nature of rights protection provided for HE lecturers by the Australian constitutional framework and general legal system to what lecturers in South Africa experience. Moreover, the overview and analysis of the Australian legal system contributed to the correct interpretation of the empirical data generated from the Australian participants (Chapter 8).

As indicated in Table 4.1, the Australian federal system of government is founded in the liberal democratic tradition. Although the executive power of the Australian Commonwealth is vested in the Queen of the United Kingdom who is formally recognised as the Head of State, Australia is a fully independent nation and a Confederation of States, and the Queen’s executive power is exercisable by the Governor-General as the Queen’s representative (Parliament of Australia, 2014). The Australian federal system of government has three separate jurisdictions with unique law-making powers: a federal or national Parliament; six state and two territory Parliaments; and 560 local councils across the nation. There is some measure of overlap in the responsibilities of

federal, state/territory, and local governments, but generally each level of government provides different services to Australian citizens:

- *The federal government has broad national powers. Among other things, it administers laws in relation to defence, immigration, foreign affairs, trade, postal services and taxation.*
- *State/territory governments have the power to look after laws not covered by the federal government; for instance, hospitals, schools, police and housing services.*
- *The powers of local councils are defined by Acts of Parliament passed by state parliaments and include responsibility for building regulations, rubbish collection, local roads and pet control (Australian Parliamentary Education Office, 2014).*

The main object of the original Commonwealth of Australia Constitution Act as proclaimed on the 9<sup>th</sup> of July 1900 was to establish the Commonwealth of Australia. In addition, the Australia Constitution Act established the powers by which legislators could make laws, the manner in which executive government could implement those laws, and the operation of the different Australian courts. In effect, the Australia Constitution Act thus established the relationship between the different States and the Commonwealth. In contrast to South Africa, where the President as Head of State plays an active role in the SA Government, the Queen does not figure in the day-to-day running of the Commonwealth Government. As noted, the Governor-General, appointed by the Queen as her representative in the Commonwealth, has and may exercise such powers and functions as assigned to him by the Queen [Chapter 1, part 1, section 2 of the Commonwealth of Australia Constitution Act (84/1977)].

The latest version of the Commonwealth of Australia Constitution Act (84/1977) (*hereafter only referred to as the Australian Constitution*), specifies that the stipulations therein (as is the case with the SA Constitution) are binding on all people, including the Commonwealth Parliament, the Parliaments of each of the six Australian States and those of the two territories. The six state parliaments are permitted to pass laws related to any matter that is not controlled by the Commonwealth under sections 51 and 52 of the Australian Constitution, but section 109 of the Australian Constitution clearly indicates that the laws of a state may never be contrary to the laws of the Commonwealth of Australia. The Australian Constitution establishes the composition, functions and powers of the Australian Parliament (Chapter 1), explains the sharing of power between federal and state Parliaments, and defines the roles of the Executive Government (Chapter 2) as well as the High Court and judicature (Chapter 3).

Unlike the SA Constitution, the Australian Constitution does not contain a Bill of Rights, but as the highest law in Australia (similar to the SA Constitution), it does protect certain democratic rights and freedoms (Australian Parliamentary Education Office, 2014). The absence of a Bill of Rights by no means translates into a negligent attitude towards the protection of the human rights of

Australian inhabitants. Rather, “Australia’s approach to human rights and freedoms reflects its liberal democratic ideals and a belief in the inherent dignity and the equal and inalienable rights of all people, as set out in the Universal Declaration of Human Rights” (Australian Human Rights Commission, 2013). Over the past 40 years, the Federal Parliament had passed a number of laws with the distinct aim to protect people from discrimination and infringements on their human rights [e.g. the Australian Human Rights Commission Act (125/1986), the Age Discrimination Act (68/2004), The Disability Discrimination Act (135/1992), Racial Discrimination Act (52/1975) and the Sex Discrimination Act (4/1984)]. The Australian Human Rights Commission (2013) has statutory responsibilities under these laws and recognises that human rights are inherent, inalienable and universal.

Each state and territory has its own anti-discrimination and equal opportunity legislation, and two of the States, ACT and Victoria, have human rights legislation similar to the SA Bill of Rights. Yet the purpose of this discussion is not to explain or discuss the differences between or similarities in these laws, but merely to point out that, similar to South Africa, human rights are of primary importance in the Australian context, and therefore protected by various laws as indicated in the previous paragraph. Although each of the State Parliaments can pass laws on State-specific matters while the Commonwealth can only make laws with respect to sections 51 and 52 of the Constitution, the Commonwealth Parliament is regarded as “*the more powerful partner in the federation*”, as noted in section 109 of the Australian Constitution: “*when a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid*”. This is similar to the recognised supremacy of the SA Constitution and all its provisions. In addition, the Australian constitutional system focuses on responsible government whereby the parliament holds the executive accountable and is in turn accountable to the people of Australia. Similar to the SA legal system, the principles of procedural fairness, judicial precedent and separation of powers are fundamental to the Australian legal system (Australian Parliamentary Education Office, 2014).

Australian legislation thus consists of general Commonwealth legislation enforceable in all six States and the two territories, State-specific legislation, and common law rules and principles (Department of the Attorney General, Parliamentary Council’s Office, 2011:2). For purposes of this study where the focus is on lacunae at national legislative level in the SA context, only the foundations of the Australian national legal system were investigated. The different state-specific legislation thus did not form part of the review or comparison. The focus was on relevant Commonwealth Higher Education-specific and more general labour legislation that bear on the regulation of the accountability and the protection of the security of the Australian lecturer.

In South Africa and in Australia, legislation consists of Acts and subsidiary legislation. Acts refer to those laws enacted by Parliament while subsidiary legislation, also called by-laws or regulations, are laws made by people pursuant to delegated authority through an Act of Parliament. Subsidiary legislation will often provide details of a provision that is nationally or locally enforceable but not covered by the Act under which it is made (Department of the Attorney General, Parliamentary Council's Office, 2011:2). An example of national subsidiary legislation that is of importance for purposes of this study is the Threshold Standards as discussed in section 4.3.3.4.

Apart from the obvious differences in the governmental and governance structures of South Africa and Australia (Table 4.1), these two countries thus have in common Constitutional supremacy and a focus on the protection of human rights, the separation of powers to ensure responsible government, and the importance of the rule of law.

## **4.3 HIGHER EDUCATION IN AUSTRALIA**

### **4.3.1 Introduction and context**

The regulation and governance of the Australian HE system are the joint responsibility of the Australian Government (specifically the Department of Industry, Innovation, Science, Research and Tertiary Education, and the Minister for Tertiary Education, Skills, Science and Research), the State and Territory Governments, and the HE institutions themselves (Australian Education Network, 2014). Public funding for HE resides mostly in the Federal Government (Baird, 2011:27).

While SA universities are categorised into three groups according to the nature of qualifications offered (Comprehensive, Traditional and Universities of Technology) (§1.6.3), the Australian Education Network (2014) offers a worthwhile perspective in the context of this study on the categorisation of Australian universities, indicating four main groupings categorised according to similar vision, focus and mutual objectives of the member universities. According to the Australian Education Network (2014) these objectives include, amongst others, marketing advantages, international connections, increased lobbying power, and practical benefits of collaboration. The four groupings are: Group of Eight (Go8), Australian Technology Network (ATN), Innovative Research Universities (IRU) and the Regional Universities Network.

For purposes of this study, the Go8 universities are of particular interest. The Group of Eight (2014) is referred to as Australia's leading universities due to variables such as graduate outcomes, research outputs, industry relations and the standing of academic staff. Member universities are: the University of Adelaide, the Australian National University, the University of Melbourne, Monash University, the University of New South Wales, the University of Queensland, the University of Sydney and the University of Western Australia. Two of the Go8 (2014) aims were part of the impetus to select a university in this group for participation in this research, namely

to “*enhance the contribution of its member universities to the nation’s social, economic, cultural and environmental well-being and prosperity*” and “*expand opportunities for Australian students, regardless of background, to participate in higher education of world class.*” These aims are in keeping with the notion of accountability of universities towards different HE stakeholders.

Over the past decade, the transformation agenda for Australian HE has been noticeably different from that of South Africa, probably due to Australia being a developed country with a favourable economic and social position as compared to South Africa, which is a developing country (§4.1). The documents analysed with regards to transformation of the SA HE system (§3.2.2) revealed a strong focus on addressing equity, improved access, and a post-school education and training system that is responsive to the needs of society and employers in both public and private sectors. Contrariwise, with a view to achieving the vision of “*a stronger and fairer Australia,*” the Australian Government (2009:5) has committed to make “*unprecedented investment in universities... to drive comprehensive reform.. (including) an immediate injection of funding to address weaknesses and build on strengths, while putting in place a realistic plan over the next decade to ensure the higher education system is sustainable into the future.*” These include investments to improve the national broadband network, plans to combat climate change and strategies to use HE to further improve and enlarge “*Australia’s economic potential. The investments and reforms being made will drive improvements in productivity and create a smarter, cleaner and more competitive economic future for Australia.*” Whereas the SA Government views HE as a vehicle to drive social equality in a bid for more economic stability, in the Australian context where economic stability is already a given, the Australian Government recognises the necessity to invest in the HE system to provide the Australian economy with a competitive edge in the world market (Australian Government, 2009:5).

In addition to the indicated focus on a clean and safe environment and increased productivity, there is an explicit need to place students at the centre of all Australian HE reforms. This includes a clear commitment to fund the needs of students and to further improve a high quality HE sector that can deliver graduates who will meet the knowledge and skills challenges of Australian society (Australian Government, 2009:5). The principles informing the transformation agenda include opportunities to study for all, access to universities based on merit and not the ability to pay, academic freedom and autonomy and research that advances knowledge and critical thinking (Australian Government, 2009:8). In contrast, as discussed in section 3.2.2, the transformation agenda for SA HE is focused on “*tackling the challenges of poverty, unemployment and inequality*”, and linking institutional autonomy to the more important demands of public accountability (DHET, 2013:27).

Similar to the DHET's unease regarding the retention of the academic workforce in SA (§3.2.2), there is concern with regards to the academic workforce in Australia. It seems that the Australian academic workforce is ageing and factors such as lack of job security due to employment of more contract staff, increasing workloads and lower salaries in comparison to other sectors, have decreased the appeal of an academic career (Australian Government, 2009:23). Comparable to similar promises of recruitment and professional development for academic staff from the DHET (§3.2.2), there is a commitment that the Australian Government (2009:23) will "*consult with the sector on the most effective steps to support the renewal and growth of the academic workforce*".

The following section focuses specifically on the national imperatives that have been initiated by the Australian Commonwealth over the past decade to support the retention and growth of the academic workforce, and to enhance the quality of teaching and learning in Australian universities. This analysis is of specific significance to the aims of this study since it provides guidelines that were crucial to inform the improved juridical foundation for the teaching-related accountability of SA lecturers with a view to enhance their security (§9.3).

#### **4.3.2 A quality framework for Higher Education in Australia**

The promotion of teaching excellence has been an Australian government focus for many years (Devlin & Samarawickrema, 2010:115). Moreover, Chalmers (2007:25) states that the Australian Commonwealth has managed to establish an effective quality framework for HE: "*It has systematically implemented quality reviews and audits, established frameworks and guidelines for accreditation and established mechanisms by which quality research and teaching can be identified*". In this regard Devlin and Samarawickrema (2010:115) acknowledge the work of the federally funded Australian Learning and Teaching Council (the ALTC) that was established in 2004 "*as a national focus for the enhancement of learning and teaching in higher education*". At the time of its establishment, the ALTC was responsible for developing criteria for excellence in university teaching and to assess adherence to those criteria with a view to provide national recognition and reward for excellent lecturers (Baird, 2011:38). Those same criteria have been employed by many Australian universities to recognise teaching excellence and as a basis for promotion applications. The ALTC has since been replaced by the Office for Learning and Teaching (2013) with the express focus on the promotion and support of change in higher education institutions for the enhancement of learning and teaching.

McInnis (2000:150) makes the following statement that is highly relevant to this study with regard to the indication of Commonwealth imperatives to devise a national standard for quality teaching, a national endeavour that should inform the guidelines for an improved juridical foundation for the teaching-related accountability of the SA HE lecturer:

*The level of activity in Australia aimed at improving teaching over the last 5 years or so has been extraordinary. National bodies have been created to encourage, fund and steer teaching innovations. These have been replicated at the institutional levels in a variety of forms. All university graduates are surveyed on their course experience and the quality of teaching. Again, these extensive national efforts at monitoring and rewarding good teaching are mirrored in the universities and academic departments. The pressure on academics to examine and change their approaches to teaching has left few unaffected. The growing demands on universities to improve performance in teaching over the last decade have accelerated most recently with the development of performance indicators by government and the market competition for fee-paying students.*

The project that resulted in the development of the national performance indicators for teaching and learning in Australian HE as referred to in the quotation above, was an ALTC initiative with the express purpose of establishing mechanisms to identify quality teaching (Chalmers, 2007:7). She links this initiative to increased public and governmental interest in the employability of students as a result of teaching efforts, thereby providing in the nation's need for "a highly skilled workforce that supports economic and social growth" (Chalmers, 2007:12). It should be noted that the quality of teaching is not only related to what actually happens in the university classroom, but also to the collective number of hours spent on various forms and demands of the various roles of the lecturer pertaining to the teaching environment (§6.3).

Chalmers (2007:76) warns against devising and implementing national performance indicators without taking institutional variables, such as date of establishment of the institution, access to funding, types of qualifications offered and related admission standards, and institutional mission and location, into account. It thus seems of more value to establish a framework with an indication of minimum standards for teaching quality with a view to provide for contextual factors. Cretchley, Edwards, O'Shea, Sheard, Hurst and Brookes (2014:654) warn that in spite of the many initiatives to enhance and monitor the quality of teaching and learning in HE, none of the imperatives will be of any value if they do not influence academics' perceptions of the importance of teaching compared to research, thereby raising their levels of commitment to their teaching-related responsibilities and teaching performance. The recognition of the professional status of the lecturer, and institutional reward and recognition for teaching excellence, are thus identified as imperative for the enhancement of the quality of the teaching-related work of the lecturer.

Of great importance to inform national imperatives for the enhancement of lecturer security in SA HE, is the Australian national strategic initiative to provide Australian lecturers with an alternative career path to that of academic researcher. The development of the Mission Based Compacts (Department of Industry, Innovation, Science, Research and Tertiary Education, 2011:1) was a

collaborative effort between the Australian Government and Australian universities to provide a “*key vehicle for the achievement of the government’s goals for higher education*”. The focus of this endeavour was on government’s goal to ensure that at least 40% of all 25 to 34 year old Australians will have attained an educational qualification at bachelor level by 2025. One of the strategic directives to facilitate capacity building in the HE sector is the official recognition of academics with either a teaching or a research focus. In fact, many Australian universities have gone so far as to start building a teaching-only staff cohort: “*This was viewed as offering staff an alternative career path to one focused on research outputs, with promotional opportunities linked to excellent performance in teaching and learning*”. Such an alternative career path is thus of significance for the protection of the professional status of lecturers with a teaching focus (Department of Industry, Innovation, Science, Research and Tertiary Education, 2011:7). Moreover, many universities have begun with strategic initiatives to improve the quality of teaching and learning by providing focused training and development opportunities for current academic staff, and requiring new and early career academics to obtain formal qualifications in HE teaching. Many of the above initiatives are noteworthy guidelines that could also enhance lecturer security in the SA HE context and thus significant to inform the guidelines for the improved juridical foundation for lecturer accountability (§9.3).

### **4.3.3 Australian Higher Education legislation**

A brief overview of Australian HE legislation follows in an effort to find further specific reference to the teaching-related accountability and rights protection of the lecturer. It should be noted that at the time of writing this thesis some of Australia’s HE legislation was under review. It was thus decided to discuss the current legislation as still in force and to mention the amendments as available at the time of doing the research.

#### **4.3.3.1 The Australian Qualifications Framework**

Similar to the SA HEQSF (§3.2.5), which governs the classification of HE qualifications in South Africa, the Australian Qualifications Framework (AQF) performs the same function and integrates all levels of tertiary education (both vocational and HE), from trade certificates to higher doctorates, in a single coordinated system (Australian Qualifications Framework Council, 2013). Like the HEQSF, the AQF provides “*guidelines for learning outcomes, pathways, assessment and accreditation of qualifications, allowing students to move easily between levels of study and institutions, receiving credit for previous study*”, thereby standardising all Australian qualifications.

The AQF underpins the Australian national monitoring and quality assurance provisions for HE and training. This framework does not include mention of lecturer responsibilities, but does imply that the lecturer must be in possession of advanced knowledge and understanding of qualification

standards in order to develop academic qualifications that may be conferred by Australian universities. This is similar to the requirements of the SA HEQSF.

#### **4.3.3.2 The Higher Education Support Act**

As explained in the Higher Education Support Act (149/2003) (*hereafter only referred to as the HE Support Act*), the Australian Government is primarily responsible for public funding of HE through Commonwealth grants and scholarships. A number of objectives of this Act as stated in Division 1, section 1-2 thereof, are “*to support a higher education system that is characterised by quality, diversity and equity of access; and contribute to the development of cultural and intellectual life in Australia; and is appropriate to meet Australia’s social and economic needs for a highly educated and skilled population*”. Last-mentioned is similar to the aim of the SA HE Act that also promotes responsiveness to the current social and employment needs of the country (§3.2.3).

Division 19 of the HE Support Act provides for the external accountability requirements of Australian HE providers (§5.3), inclusive of quality (subdivision 19-C) and fairness requirements (subdivision 19-D). This Act also stipulates that HE providers are audited by quality bodies at least once every five years to determine adherence to the stated requirements. As is the case with the content and provisions of the SA HE Act (§3.2.3), the Australian HE Support Act does not provide for any guidelines or requirements with regards to the teaching-related rights and responsibilities of HE lecturers, but focuses on the establishment, governance and accountability of HE providers, and the financial support to such providers and HE students.

#### **4.3.3.3 The Tertiary Education Quality and Standards Agency Act**

As is the case in South Africa where HE providers are required to register according to the provision in the SA HE Act (§3.2.3), HE providers in Australia are required to register under Part 3 of the Tertiary Education Quality and Standards Agency Act (73/2011) (*hereafter only referred to as the TEQSA Act*) in order to be listed in the national register. Such registration thus forms part of the regulation of Australia’s HE sector and TEQSA directly monitors the adherence to the provisions of the TEQSA Act as well as to a set of quality standards, known as the Threshold Standards, discussed hereafter. The objectives of the TEQSA Act as stated in Division 2, read:

*(a) to provide for national consistency in the regulation of higher education; and (b) to regulate higher education using: (i) a standards-based quality framework; and (ii) principles relating to regulatory necessity, risk and proportionality; and (c) to protect and enhance: (i) Australia’s reputation for quality higher education and training services; and (ii) Australia’s international competitiveness in the higher education sector; and (iii) excellence, diversity and innovation in higher education in Australia; and (d) to encourage and promote a higher education system*

*that is appropriate to meet Australia's social and economic needs for a highly educated and skilled population;...*

In contrast to SA national HE-specific legislation wherein there are no references to the expected accountability of a HE lecturer, the above objectives include specific reference to the provision of quality HE, which is elaborated on in Part 5, Division 1, section 58 of the TEQSA Act, namely the Higher Education Standards Framework. Section 58 makes provision for the Minister to formulate standards via legislative instruments for, amongst others, Provider Registration, Course Accreditation, Qualification Standards, Teaching and Learning Standards and any other standards against which the quality of HE can be assessed. One of the national legislative instruments developed for such purposes is the Threshold Standards (Department of Industry, Innovation, Science, Research and Tertiary Education, 2013). A series of technical amendments have been made to the 2011 Threshold Standards, published on 28 March 2013. These technical amendments are separate from the more comprehensive review currently underway by the Higher Education Standards Panel (2013). One of the major revisions is the nature and role of the so-called Non-threshold Standards as discussed in the following section.

#### **4.3.3.4 The Threshold and Non-threshold Standards**

According to the Higher Education Standards Panel (2013), the Threshold Standards consist of Provider Registration and Provider Category Standards, Provider Course Accreditation Standards and Qualification Standards. The Non-threshold Standards will include Teaching and Learning Standards, Research Standards and Information Standards. It was most unfortunate that at the time of completion of this thesis, the Non-threshold Standards had not yet been defined or published. Last-mentioned would have been invaluable in terms of the aims of this study.

Chapters 1 and 2 of the Threshold Standards [Higher Education Standards Framework (Threshold Standards), 2011; Department of Industry, Innovation, Science, Research and Tertiary Education, 2013] focus on the standards for institutions to register as HE providers, standards to sustain such registration through maintaining quality in various areas, and adherence to provider category standards. One of the areas identified as imperative for quality maintenance is the management of human resources as specified in Chapter 1, section 5 [Higher Education Standards Framework (Threshold Standards), 2011]. Herein it is stated that the HE provider must ensure that its operations are well-managed and that its human resources are appropriate to attain its mission and objectives. The following standards are defined for the management of human resources as indicated in certain provisions of section 5, Chapter 1:

*5.1 The higher education provider has sufficient appropriately qualified personnel to manage and to provide academic leadership for the higher education provider's higher education operations.*

- 5.2 *The higher education provider has the necessary staff positions, filled by appropriately qualified and experienced personnel, and access to other human resources, to achieve its higher education objectives, which include the achievement of expected student learning outcomes.*
- 5.3 *The higher education provider manages its human resources to ensure effective: workload management; merit-based selection and promotion processes; induction; performance review; grievance procedures; and professional development of its personnel.*
- 5.6 *The higher education provider compares its performance on teaching, student learning outcomes, graduate outcomes, and research with other higher education providers, and uses regular, valid and reliable feedback from internal and external stakeholders to improve its higher education operations. [Higher Education Standards Framework (Threshold Standards), 2011.]*

In contrast to the provisions in SA HE legislation that do not include any mention of the rights or responsibilities of HE lecturers (§3.2.7), the above excerpt points directly to the protection of the work conditions of academic staff and national requirements for their professional development and lecturer accountability for student learning.

Chapter 3 provides for standards for course accreditation. It is within these standards that the requirements for teaching, learning and assessment, elements pertaining to the work of the HE lecturer, are specifically provided for. The following is an excerpt from Chapter 3, section 4 of the standards for maintaining academic quality and integrity that bears on the work of the HE lecturer:

- 4.1 *The higher education provider's objectives for its higher education operations include the cultivation in students of critical and independent thought and the capacity for learning throughout life.*
- 4.2 *The higher education provider promotes and protects free intellectual inquiry and expression in its higher education learning, teaching, and research activities.*
- 4.3 *The higher education provider protects academic integrity in higher education through effective policies and measures to: ensure the integrity of student assessment; ensure the integrity of research and research activity; prevent, detect and address academic misconduct by students or staff, including cheating and plagiarism; ensure that academic staff are free to make public comment on issues that lie within their area of expertise. [Higher Education Standards Framework (Threshold Standards), 2011.]*

Chapter 3, section 4.2 as indicated in the above excerpt is further qualified in the Threshold Standards when it is explained that the HE provider must ensure that teaching staff:

- *are appropriately qualified in the relevant discipline for their level of teaching (qualified to at least one AQF qualification level higher than the course of study being taught or with equivalent professional experience);*
- *in the case of supervision of students in a course of study that leads to a Doctoral Degree (Professional) award located at level 10 of the AQF, are qualified at level 10 of the AQF or have equivalent professional experience;*
- *in the case of supervision of students in a course of study that leads to a Doctoral Degree (Research) award located at level 10 of the AQF, are qualified at Doctoral Degree (Research) level or have equivalent research experience;*
- *have a sound understanding of current scholarship and/or professional practice in the discipline that they teach;*
- *have an understanding of pedagogical and/or adult learning principles relevant to the student cohort being taught;*
- *engage students in intellectual inquiry appropriate to the level of the course of study and unit being taught; and,*
- *are advised of student and other feedback on the quality of their teaching and have opportunities to improve their teaching. [Higher Education Standards Framework (Threshold Standards), 2011.]*

Specifically of significance is not only the specification on national legislative level of the qualifications that HE lecturers must possess in order to teach and the notion that the lecturer must be up to date on current scholarship and professional practice in the discipline that is taught, but also the inclusion of the requirement of knowledge and understanding of pedagogical and adult learning principles needed to teach the relevant student cohort effectively. Current SA HE legislation is void of regulation concerning the last-mentioned. In the SA context, the quality of teaching and learning with all that it entails, is regulated by institutional policies and rules (§3.4.2).

In addition, Chapter 3, section 4.3 states that the HE provider must ensure “*that academic staff who teach on a course of study are reasonably available for students seeking academic assistance for units within the course of study.*” The inclusion of the above requirements for Australian lecturers in national legislation is significant for purposes of this study since the omission thereof in SA HE legislation initiated the investigation into the rights and responsibilities and, *inter alia*, the accountability of the HE lecturer. The above initiatives thus serve to partly realise one of the secondary aims of this study (§1.5), namely to determine how Australian HE-specific sources of law can inform the juridical foundation for accountability to enhance the security of the South African lecturer.

## 4.4 THE FOUNDATION OF LABOUR LAW IN AUSTRALIA

### 4.4.1 Introduction

Although certain State-specific labour legislation also bear on the regulation of employment issues in the Australian labour environment, for the purpose and nature of this comparative approach, it was deemed sufficient to focus only on the provisions of the Australian Fair Work Act (28/2009) (*hereafter only referred to as the FWA*) and the so-called Modern Award for the Higher Education Industry – Academic Staff Award 2010. This decision was grounded in the following observation of Durur and Gilmore (2013:170):

*In Australia, the legal framework that establishes the rights and responsibilities of employers and employees in higher education has since January 2010 been under the Commonwealth Government's Fair Work Act 2009. The Act has provided for ten National Employment Standards (NES) and for the Industrial Tribunal, Fair Work Australia, to introduce sector-wide Modern Awards, which establish generic, minimum standards of employment.*

Chapter 2, part 2-3 of the FWA explains that a Modern Award “*is made for a particular industry or occupation and provides additional minimum terms and conditions for those national system employees to whom it applies*”. The Modern Award for the Higher Education Industry – Academic Staff Award 2010, thus specifies how the minimum conditions of employment of the Fair Work Act should be applied in the HE sector. For instance, this Modern Award provides for the classification of academic staff appointments (Level A to E), the minimum rates of pay for each level of appointment, rules for employment of casual academic staff, regulations for termination of academic employees and leave entitlements.

Of significance for this study, is Schedule A of the Modern Award for the Higher Education Industry – Academic Staff that provides for a description of Level A to E academic appointments for lecturers on a career path in both teaching and research, and those on a research-only career path. As the Modern Award is a national regulatory document, the minimum standards and task requirements for each level of appointment are standardised, thus setting a minimum benchmark for academic appointments at all institutions of higher learning. Since a clear career path for academics with a focus on a teaching-only career path is one of the strategic goals of the Mission Based Compacts as discussed in section 4.3.2, the addition of minimum standards and task requirements for Level A to E academic appointments for lecturers on a focused teaching-only career path, may be eminent. While the Modern Award for the Higher Education Industry – Academic Staff, sets the minimum employment terms and conditions for academic staff, it is important to acknowledge that employment conditions of lecturers are regulated by collective workplace agreements, referred to as Enterprise Agreements, that are negotiated between the

university, employees and the relevant unions through enterprise bargaining. These agreements may expand on, and exceed the minimum conditions that are stipulated in the Modern Award, and they may include detailed provisions unique to employment at the concerned institution. In addition, these stipulations of these agreements must always be more favourable to the employee (Durur & Gilmore, 2013:170).

As the FWA provides the basis for Australian employment relations and agreements, its provisions are subsequently analysed and compared to the provisions of SA national labour legislation.

#### **4.4.2 The Fair Work Act**

Mitchell, Gahan, Stewart, Cooney and Marshall (2010:2) explain that Australian labour law has been going through a decade of turbulent transition not yet finalised. During this time the Industrial Relations Act of 1988 had first been replaced by the Workplace Relations Act of 1996, and thereafter by the Fair Work Act of 2009. They add that an analysis of “*the protective strength of labour law in safeguarding the interests of employees*” over the past four decades indicates stability within transition, while federal and state responsibilities for the regulation of labour relations were more clearly defined (Mitchell *et al.*, 2010:28-29).

The regulations of the FWA have governed most Australian workplaces from 1 July 2009. The Fair Work Ombudsman (2013b:1) assists employers and employees to understand the new fair work system, to resolve workplace complaints and enforce employment legislation. Contrary to the various national Acts regulating the labour environment in South Africa (§3.3), the FWA is an all-inclusive legal instrument in that it contains all the minimum provisions for workplace relations in Australia, summarised in the Fair Work Information Statement. The said Act provides for the minimum terms and conditions of employment and explains the rights and responsibilities of employees and employers. In Chapter 1, Part 1-1, division 2, section 3, the object of the Act is explained to be the provision of “*a balanced framework for cooperative and productive workplace relations that promote national economic prosperity and social inclusion for all Australians*” by:

- a) *providing workplace relations laws that are fair to working Australians, are flexible for businesses, promote productivity and economic growth for Australia’s future economic prosperity and take into account Australia’s international labour obligations; and*
- b) *ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions through the National Employment Standards, modern awards and national minimum wage orders;*
- c) *ensuring that the guaranteed safety net of fair, relevant and enforceable minimum wages and conditions can no longer be undermined by the making of statutory individual employment agreements of any kind; and*

- d) *assisting employees to balance their work and family responsibilities by providing for flexible working arrangements; and*
- e) *enabling fairness and representation at work and the prevention of discrimination by recognising the right to freedom of association and the right to be represented, protecting against unfair treatment and discrimination, providing accessible and effective procedures to resolve grievances and disputes and providing effective compliance mechanisms; and*
- f) *achieving productivity and fairness through an emphasis on enterprise level collective bargaining underpinned by simple good faith bargaining obligations and clear rules governing industrial action. (FWA, 2009.)*

The above aims indicate that the FWA can be construed as a combination of the provisions of all primary SA labour Acts, namely the LRA, BCEA and the OHSA (§3.3). Of specific importance is the National Employment Standards (NES) included in Chapter 2, part 2-2 of the FWA. The NES apply to all employees who function in the national employment system and the provisions of any award, agreement and employment contract may not provide for less than the NES (Fair Work Ombudsman, 2013b:1). This is similar to the requirements of the BCEA that provides for the minimum conditions of employment for all SA employees.

The NES consist of ten minimum standards of employment (Fair Work Ombudsman, 2013c:1), inclusive of maximum weekly hours of work (38 per week); requests for flexible working arrangements; regulation of all types of leave and public holidays; notice of termination and redundancy pay; and provision of a Fair Work Information Statement that must be provided to all new employees, containing information about the NES, modern awards, agreement-making, freedom of association, termination of employment, individual flexibility arrangements, etc. The Australian NES are comparable to the provisions of the South African BCEA (§3.3.3). The NES must be taken into consideration whenever an Australian employer drafts an agreement with an employee and such an agreement must ultimately be approved by and registered with the Fair Work Commission (Fair Work Ombudsman, 2013c:1).

Chapter 3 of the FWA stipulates the rights and the responsibilities of national system employers, employees and organisations. More specifically, Chapter 3, part 3-1 sets out general workplace protection in terms of workplace rights, freedom of association and protection against discrimination. With regards to specific mention of the protection of equality, the FWA stipulates in Chapter 2, part 2-7 that men and women must receive equal remuneration for work of equal or comparable value. In addition, Chapter 3, part 3-1, division 5 prohibits discrimination “*against a person who is an employee, or prospective employee, of the employer because of the person’s race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin.*”

These requirements are similar to those of the South African PE-PUDA (§3.3.4), where the elimination of unfair discrimination and the promotion of equality in respect of race, gender and disability in all work environments, are stipulated.

Chapter 3, part 3-2 establishes a framework and flexible, informal procedure for dealing with unfair dismissal and possible remedies whenever a dismissal is found to be unfair. The fairness of a dismissal is judged by the Fair Work Commission (FWC) and it is stipulated that a person is deemed to be unfairly dismissed when the FWC is satisfied that:

- a) the person has been dismissed; and*
- b) the dismissal was harsh, unjust or unreasonable; and*
- c) the dismissal was not consistent with the Small Business Fair Dismissal Code; and*
- d) the dismissal was not a case of genuine redundancy.*

In the SA context the rules and procedures for unfair dismissals are stipulated in the LRA (§3.3.2), specifically in sections 185-197 with regards to dismissals, and in the codes of good practice. The CCMA performs the same duties as the FWC. The FWC considers a dismissal to be unjust or unreasonable if such a dismissal has been effected without valid reasons related to the employee's capacity or conduct, if the employee has not been notified of the reason for dismissal, or not granted the opportunity to respond to that reason, and when the dismissal relates to unsatisfactory performance, if the employee has not been given fair warning of the unsatisfactory performance before the dismissal. These requirements are similar to those stipulated in the LRA. Remedies for unfair dismissals in Australian context refer to either reinstatement or the payment of compensation.

Chapter 3, part 3-3 of the FWA focuses on rules and procedures for protected industrial action, lock outs and illegal industrial action while part 3-6 provides for rights and responsibilities pertaining to the termination of employment. Similar provisions are included in certain sections of the South African LRA (§3.3.2) and EEA (§3.3.4).

All of the provisions in the FWA are relevant to the regulation of the working environment and subsequent protection of Australian HE lecturers in their capacity as public university employees. While none of the stipulations provides specifically for the teaching-related accountability and rights of HE lecturers, of significance to the realisation of the aim of this comparative approach (§1.5) is the Modern Award for the Higher Education Industry – Academic Staff Award 2010 that regulates the application of the minimum conditions of employment of the FWA for lecturers, as well as the standards and task requirements for academic appointments at different levels and for academics on different career paths.

## 4.5 SUMMARY OF CHAPTER

With a view to providing a limited comparative international legal perspective on the rights protection and the accountability of the HE lecturer, Australian HE-specific and general labour legislation have been discussed. Transformation of the Australian HE system over the past decade has focused on a safer, cleaner environment, increased productivity, increased student numbers, and an explicit need to place students at the centre of all HE reforms, inclusive of better funding opportunities, and the further improvement of a high quality university sector to deliver graduates that will meet the knowledge and skills challenges of the Australian society.

The analysis of Australian HE legislation has yielded some meaningful results. In contrast to SA national HE legislation wherein there is no reference to the expected responsibilities of the HE lecturer, the TEQSA Act makes provision for the national Threshold Standards wherein national requirements for the work of the Australian HE lecturer are stipulated. These standards bear on the responsibilities of the HE lecturer to ensure comparable teaching performance and student learning, and on certain lecturer-specific rights, i.e. the management of fair workload, acknowledgement of performance for promotion, access to appropriate grievance procedures, and professional development opportunities. Furthermore, the level of the qualifications expected of HE lecturers in order to teach is stated in this national legislative instrument. Of significance is the requirement that the lecturer must not only be knowledgeable with regard to current scholarship and professional practice in the discipline that is taught, but also with regard to pedagogical and adult learning principles needed to effectively teach the student cohort. The inclusion of these requirements in Australian national legislation is significant as an international guideline for the improvement of lecturer accountability to enhance the security of the SA lecturer.

The final section of this chapter focused on an overview of relevant Australian Labour legislation for the teaching-related rights and responsibilities of the HE lecturer. The primary statute for the regulation of employment relations for employees of public universities is the Fair Work Act. The analysis of the provisions of the said Act indicated many similarities to provisions in different labour statutes in the SA context. Although the NES and other labour stipulations of the FWA are of a general nature applicable to all Australian employees, there are a number of policy directives (e.g. the Modern Award for the Higher Education Industry – Academic Staff Award 2010) that provide guidelines for the required minimum conditions of employment particular to the academic profession, and the expected minimum standards and task requirements for lecturers on different career paths. These directives contribute towards the answering of research sub-question 2 and were thus exceedingly valuable to inform the guidelines for an improved juridical foundation for lecturer accountability to enhance lecturer security in South Africa (§9.3).

## CHAPTER 5: **ACCOUNTABILITY OF HIGHER EDUCATION LECTURERS**

### **5.1 INTRODUCTION**

Chapters 5 and 6 focus on the third research aim of this study, namely to identify and theoretically analyse the characteristics that constitute accountability in general, and in particular the accountability of lecturers in their teaching-related work. It is important to remember that the conceptual framework to this study (§1.4) has already positioned accountability within the SA legal framework as relevant for the realisation of the concerned research aims (§1.5). In the said framework, the links between accountability and Education Law (§1.4.2), the common law (and particularly the law of contract) (§1.4.3), employment relations (§1.4.4), professional and ethical conduct (§1.4.5), and HE in particular (§1.4.6) have been clearly established. Chapter 5 thus provides only a theoretical foundation for identifying the characteristics of accountability in general, and lecturer accountability in particular.

In the exploration of the concept of accountability in the orientation to the research problem of this study (§1.2.1), a distinction emerged between accountability to external stakeholders for decisions, activities and agreed outcomes (external accountability), and accountability to internal stakeholders whereby employees within the organisation are held accountable for their conduct and decisions by their employers (internal accountability). Such a distinction is of value to this study in that lecturer accountability is both external and internal in nature. The subsequent theoretical discussion of lecturer accountability thus serves to elucidate the nature of the external and internal accountability of lecturers in their teaching-related work.

Of note is the fact that required massification and increased calls for accountability for student success as explained in section 1.1, together with reduced governmental funding for HE, have “*resulted in a discouraging environment for the academic profession worldwide*” (Altbach *et al.*, 2009:89). The academe is thus literally in an age of crisis and there is insufficient incentive for a new and upcoming class of academics to take the place of retiring professors. While success in HE cannot be achieved without academic employees who are appropriately qualified and committed to their work, corresponding support and strategic initiatives to develop and retain this important human resource have thus far been lacking. It was thus deemed important for purposes of this research to determine the nature of the accountability of the lecturer with a view to generate guidelines for delimiting such accountability, thereby enhancing lecturer security. This strategy should not only contribute

to the recognition and retention of the academic employee in the SA context, but also make the academic profession more attractive for new recruits.

In this research, the SA lecturer's external accountability encompasses his or her answerability to the strategic priorities of the Department of Higher Education and Training (DHET), and to the SA public, industries and businesses, for delivering graduates who are employable within the different SA communities (§5.3). Internal accountability comprises the lecturer's accountability towards institutional and faculty managers, colleagues and students as primary university clients (§5.4). The elucidation of the concepts of external and internal accountability is pre-empted by a brief general conceptualisation of accountability.

## **5.2 ELEMENTS OF ACCOUNTABILITY**

Accountability signifies an account-giving relationship wherein an accountee is obligated to explain and justify decisions or conduct to an accouter (§1.2.1). Bovens (2007:449) and Küsters, Truderung and Vogt (2010:526) maintain that contemporary scholarly discourse uses accountability as a theoretical concept covering everything from transparency and democracy to efficiency, responsiveness and responsibility. The different meanings attributed to the concept of accountability are as numerous as the contexts in which they are used (Nieuwenhuis *et al.*, 2007:103; Stensaker & Harvey, 2011:7). Yet there are certain common elements, irrespective of its context or definition. These elements are briefly discussed in the following sections. The empirical investigation elaborated on the nature and origin of the accountability of lecturers within the HE context and specific to their teaching-related work (§8.3).

### **5.2.1 Answerability**

In literature associated with the social sciences, and political and public administration, answerability is often used as synonym for accountability (Bovens, 2007; Dubnick, 2003; Erkkila, 2007; McGee & Gaventa, 2010:13; Salmi, 2008), since any normal-functioning social system requires answerability for both favourable and unfavourable behaviours, thereby establishing accountability as a fundamental element in workplace relations (Breaux *et al.*, 2009: 307). Hall *et al.* (2006:88) are of the opinion that the assessment of task attainment by an accouter is critical to distinguish accountability from responsibility. Whereas the employee is responsible to complete certain tasks, only when the employee is answerable to someone for fulfilling those responsibilities, does accountability become recognisable.

Of significance in the accountability relationship is the issue of trust since trust negates the necessity for overt accountability or so-called answerability (Stensaker & Harvey, 2011:11). When the need for establishing accountability overtly increases, it is usually an indication of

deterioration in trust between two parties. The element of answerability often results in control over the behaviour of employees, which reduces their autonomy and causes them to behave as is expected or desired only for as long as they believe that the accouter is able to monitor their behaviours with specified sanctions (Hoecht, 2006:550).

McGee and Gaventa (2010:13) state that answerability is not a single action but a process whereby individuals or organisations are required to clarify (positively) or justify and/or defend (negatively) their actions to a line manager, in particular when that action or decision resulted in either a *faux pas* or an untoward act (Dubnick, 2003:409). The measure of accountability of an employee is derived from his or her employment status as provided for in organisational policies and regulations (§3.4.2), and specifically from the employment contract or job description (§3.4.3) (Dubnick, 2003:417).

In summary one can state that answerability involves two types of accountability questions. The first type is a one-way transmission of information where transparency serves as rationale with a view to make organisations or individuals responsive to their stakeholders (Bovens, 2007:448-449; Brinkerhoff, 2001:2), which within the HE environment would imply government and business for instance as external stakeholders, and management and students for instance as internal stakeholders. The person held accountable (the accountee; the lecturer) has the obligation to release information to the person in a monitoring or overseeing position (the accouter; e.g. the dean), who has the right to receive information for the sake of clarity (Schedler, 1999:15). The promise of transparency is identified by Roberts (2009:957) as an ideal that is seldom realised in organisations, yet recognised as one of the mechanisms that enhances the confidence of stakeholders in an organisation's ability to deliver on promises.

Transparency not only aims to enhance accountability and stakeholder confidence, but also threatens to uncover bad practices and failures, often resulting in a forced or false transparency to avoid negative consequences (Roberts, 2009:958). Neyland (2007:499) agrees that so-called transparency reviews (such as national audits on universities) do not necessarily expose the internal dynamics of an organisation or ensure accountability of its members. Rather, it often encourages the participants to adopt alternative communication and production processes temporarily in order to provide the information required for the review. Findings from a study conducted by Anderson (2006:167) in the Australian HE context indicate that when a quality audit from an external body is expected, an "*exercise in window-dressing*" often ensues, thereby decreasing the value of such an accountability mechanism to determine true institutional quality. In such cases transparency does not

necessarily guarantee true accountability. This is in keeping with Hoecht's concerns stated above.

The second type of accountability seeks explanation or justification - valid reasons for actions or decisions (Schedler, 1999:15; Dubnick, 2003:3). Brinkerhoff (2001:2) explains that such questions go beyond one-way transmission of information, to public dialogue and debate between accountees and accounters. The answers to the last-mentioned type of questions are more responsive in nature and may provide accounters with more substantive proof of true accountability (Bovens, 2007:450).

### **5.2.2 Standards of conduct**

Burke (2004:4) and Bovens (2007:448) maintain that for a person to be held accountable, his actions must be measured against known standards or expectations. Accountability should therefore be defined in terms of specific behavioural requirements, task goals and related criteria. If standards of conduct are clear, accountability becomes an inherent value and desire to deliver what has been promised or required, to honour obligations and to fulfil expectations and agreed-upon requirements (Nieuwenhuis *et al.*, 2007:104). Transparency should thus be reciprocal in the accouter-accountee relationship. Should the standard not be upheld, the accountee will require justification of the accouter, and depending on last-mentioned, the accouter may face appropriate consequences, either positive or negative. Breaux *et al.* (2009:308) concur that any accountability system must stipulate the organisation's expectations with regards to the task requirements and the behavioural norms of its employees. Within the labour environment, standards of conduct should be specified in employment contracts, institutional policies, rules and regulations, and expected codes of professional and ethical conduct. Employees should derive a measure of security from such guidelines and standards within their work environment since their employers' expectations will be clearly documented.

Over past decades, accountability goals in HE have been known to shift from efficiency to quality to productivity and finally to responsiveness to public priorities and market demands (Burke, 2004:6). In this regard, Salmi (2008:114) emphasises that consistent leadership must embrace an accountability system that can measure progress towards goal attainment. The changing of goals determines the issues that leadership, and ultimately the employees, in any organisation must answer for, which in turn transform task requirements and the required standards of conduct of an organisation's employees.

The national code of professional ethics as found in the SA SACE Act (31/2000) clearly defines the standards for professional conduct expected of educators in public schools. The stipulations of this code, however, do not legally apply to the conduct of HE lecturers. In HE

context, expected professional and ethical conduct are rather defined in institutional rules or regulations as discussed in section 3.4. Furthermore, the contractual obligation assumes the existence of a legally binding employment agreement with written standards of performance and specific enforceable terms (Demirag, Dubnick & Khadaroo, 2004:66). In the document analysis of a sample of HE lecturer employment contracts it was found that performance standards and specified responsibilities in terms of teaching-related work of the lecturer are not sufficient to ensure accountability in teaching practices (§3.4.3).

McGee and Gaventa (2010:14) explain that standard setting represents an important first stage in the accountability process. During this stage the accounters must clearly define the behaviour and goals that are expected of the accountee as well as the criteria by which such actions will be judged in a valid and fair manner. After careful consideration of these criteria, the accounters can initiate the investigation to determine whether the accountees have met the defined expectations. Fair sanctions should ensure that the accountee is appropriately disciplined for performing/acting below the expected standard, or otherwise rewarded for achieving or exceeding them (McGee & Gaventa, 2010:17).

### **5.2.3 Sanctions**

Schedler (1999:15) identifies sanctions as another defining and constitutive element of accountability, which can be defined as “*a threatened penalty for disobeying a law or rule*” with the aim of deterring the abuse of such rule or law (Oxford English Dictionary, 2013). Sanctions usually have a formal and legal connotation (Bovens, 2007:452) in the employment environment, since they are closely related to the adherence to labour legislation or organisational policies, where the actions of an accountee in the workplace are evaluated according to certain rules or criteria that carry sanctions for non-compliance (Dubnick, 2003:417). When a lecturer seriously or repeatedly violates an institutional rule or behavioural standard and is found guilty of the violation after a fair hearing, the lecturer may eventually be dismissed on the grounds of misconduct (Basson *et al.*, 2009:118). Dismissal as the most severe formal sanction is not enacted without just cause. Beckham (2005:99) includes continuous lack of collegiality, repeated neglect of duty, immoral behaviour, harassment of students or colleagues, refusal to heed prior warnings and intellectual dishonesty as other forms of inappropriate conduct that may lead to formal sanctions.

Where the conduct or decisions of the lecturer are unacceptable but do not signify any form of misconduct, a *facing of consequences* (Bovens, 2007:452) rather than a formal sanction is the more acceptable option. Grogan (2003:98) agrees when he equates sanctions to disciplinary penalties that should be applied progressively in accordance with the weight of the offence – lighter sanctions in the case of a first offence and more severe sanctions for

repeat offenders or where serious misconduct applies. Grogan (2003:98-102) places disciplinary penalties or sanctions in the following order of severity:

- general warnings, used to “*signal to all employees that the employer intends to take action against certain lesser forms of misconduct like absenteeism*”;
- informal warnings, used to “*remind an individual employee that if he or she continues with the prohibited behaviour, more serious action will follow*”;
- written warnings, more serious than a verbal warning, indicating “*proof of a warning that was given if subsequent disciplinary action proves necessary*”;
- final written warning, gives an employee one final chance to correct behaviour;
- denial of privileges like discretionary bonuses or special leave;
- suspension, either as a “*holding operation pending disciplinary actions*”, or as form of disciplinary penalty;
- demotion as alternative to dismissal; and
- dismissal as the most severe form of sanction.

When rights and responsibilities are clearly defined, and appropriate sanctions or due consequences as indicated above are fair and consistently enforced, they should contribute to the prevention of the abuse of power within any context, but also to increased employee accountability. Lack of consistent enforcement will lead to a culture of impunity, in turn contributing to engagement in corrupt practices and ultimately a total lack of accountability (Dubnick, 2003:3; Grogan, 2003:105). Schedler (1999:15-16) concurs that when sanctions or consequences are absent or selective, accountability is considered to be weak and confidence in authority is easily undermined. The accouter must therefore impose a fair punishment on the accountee who must bear the consequences of improper behaviour or transgressions (Brinkerhoff, 2001:2, 3; Dubnick, 2003:9). The severity of the sanction should always be consistent with the severity of the transgression.

Usually the term sanction is biased towards negative forms of scrutiny (Bovens, 2007:450). Yet, Salmi (2008:126) explains that many accountability mechanisms are not focused on finding of fault but often on positive judgement of actions with a view to improve behaviour or quality. As such, accountability is experienced as constructive when incentives rather than punitive measures are employed: Constructive enforcement of accountability in the HE environment can occur, for example, through financial incentives for institutions that can provide proof of adherence to required national audit criteria. In terms of the HE lecturer, constructive enforcement can come in the guise of promotional opportunities or awards for teaching excellence. An example of severe sanctions within the SA basic education sphere and related to labour law can be found in section 17 of the Employment of Educators Act

(76/1998), which stipulates that an educator must be dismissed if he or she is found guilty of, amongst others, “*theft, bribery, fraud or an act of corruption in regard to examinations or promotional reports*”. The analysis of national SA HE legislation (§3.2) has revealed that there is an absence of such national legislative regulation in the HE environment, implying that sanctions for unethical behaviour have to be defined from the premise of the Constitution, labour legislation, and institutional policies or rules.

It stands to reason that accountability for conduct or neglect of teaching-related responsibilities of the lecturer with negative consequences for students, faculty or institution, can only be determined if the responsibilities, standards for task completion and expected conduct of the lecturer are clearly defined. In the absence of such requirements and expectations, the wrongfulness of an act cannot be established. Neither can the appropriate consequence nor the penalty for non-compliance be brought into contention. The results of the analysis of national (§3.2) and institutional legal sources (§3.4) that should inform lecturer accountability in their teaching-related work have revealed institutional codes of conduct that regulate lecturer behaviour, but have not revealed specific responsibilities or task requirements that can be used as benchmarks to determine whether a lecturer is guilty of neglect or wrongful action in his or her teaching-related work. Due to the vague nature of accountability regulation these issues formed part of the empirical investigation of which the findings are reported in Chapter 8 (§8.3.2).

This concludes the discussion of the elements of accountability and their relevance to the HE environment and the teaching-related accountability of the HE lecturer. Subsequently attention is paid to the concept clarification of external accountability of HE institutions and the internal teaching-related accountability of HE lecturers.

## **5.3 EXTERNAL ACCOUNTABILITY OF HIGHER EDUCATION LECTURERS**

### **5.3.1 Introduction: external accountability in global context**

External accountability in HE is a given, especially in the wake of changes in the global economic environment that necessitated a corresponding increase in government interest in HE for the education and training of a highly educated and skilled workforce as a vital element for future economic growth of any country (Hazelkorn, 2011:13, 15). HE services are being forced to expand, and demand for greater HE access is on the increase (§1.1), while governments have developed and refined quality systems devised to monitor and assess institutional effectiveness, productivity and social responsiveness (Alexander, 2000:412; Dill & Beerkens, 2012:342; Morley, 2003:53; Teelken, 2012:274). These external accountability systems and the transparency required as a result thereof do not, however,

effectively determine the internal dynamics within institutions or result in academic staff becoming more aware of and committed to their responsibilities (Neyland, 2007:499). The organisational culture within universities worldwide has become bureaucratic and managerialistic in nature; more disposed to regulation and retrospective assessment than collaboration and professional development, thereby increasingly restricting and controlling the nature of the academic work of the lecturer (Churchman & King, 2009:507; Shin & Jung, 2014:604, 617; Srikanthan & Dalrymple, 2002:215).

In the HE context, external accountability is regulated by governmental instruments such as legislation, quality and financial audits, public reviews, and comparative national and international reviews. The institutional audit is the mechanism most often employed to measure the effectiveness of the quality assurance mechanisms of institutions to successfully meet their missions and objectives (Cheng, 2010:260). Harvey and Williams (2010:3, 7) summarise global research and scholarly opinions on the value of external quality audits in HE over the past 15 years as “*not particularly good at encouraging improvement, especially when they had a strong accountability brief.*” The audit focuses more on institutional accountability while academic staff seldom experience a sense of ownership of the audit process or the results thereof, finding such mechanisms burdensome (Al-Maskari, 2014:37). Another element contributing to academic personnel’s negativity towards external reviews is their perceptions that external accounters distrust their ability to deliver on strategic objectives. In this regard Churchman and King (2009:507) assert that regulation and control are not easily reconciled with trust and respect, last-mentioned being recognised as traditional HE values.

Yet despite all the above, Danø and Stensaker (2007:81) still maintain that external accountability mechanisms in HE should be the foundation for establishing a culture of quality assurance at institutional level. This implies that external accountability regulation should not only be implemented to judge performance at the leisure of the external accouter (Jenson, 2006:98). Rather, such regulation should provide continuous appropriate guiding principles, to managers and lecturers alike, which will visibly enhance accountability while also ensuring institutional improvement on quality issues pertinent to the concerned accouter. This notion is also voiced by Altbach *et al.* (2009:52) who plead for flexible accountability criteria at national level that will provide for the contextualisation thereof at the level of the institution. These perspectives underscore the rationale for the purpose of this study in that a juridical foundation for lecturer accountability should provide appropriate guiding principles to regulate lecturer accountability at institutional level, and enhance lecturer security due to the inclusion of lecturer-specific rights protection.

It is obvious from the above that accountability in HE is complex in nature since it is only deemed effective when it enhances the legitimacy of institutional missions and responsiveness to societal needs (Biggs, 2002:221), while also protecting institutional autonomy, lecturer academic freedom and the public interest (Burke, 2004:5; Berdahl, 2006:171; Stensaker & Harvey, 2011:1). Burke (2004:2) is adamant that external accountability requires of public service organisations such as universities to demonstrate to their stakeholders effective use of public resources; fervent efforts to achieve institutional missions; efficient realisation of set goals; value for money for their clients; continuous teaching quality improvement, and proof of “*how they serve the public’s needs.*” Many of these requirements point directly to the teaching-related work of the lecturer, and emphasise the external accountability of the academic to government and public for delivering knowledgeable and skilled graduates who are employable and an asset to society (Dill & Beerkens, 2012:342). There should however, be a careful balance in the expectation of accountability and the measure of academic freedom and autonomy still afforded to the academic to do effectively what he or she was appointed for (Berdahl, 2006:171; Burke, 2004:5). These issues come down to the recognition of and trust in the lecturer in his or her professional capacity, a subject that is recognised worldwide as an issue of concern that is further investigated in section 6.2.3. The subsequent section looks more closely at the nature of the external accountability of the lecturer, specifically in the SA HE environment.

### **5.3.2 External accountability in the South African Higher Education context**

The DHET (2013:27) summarises the three main functions of universities as follows:

*First, universities educate and provide people with high-level skills for the labour market. Second, they are the dominant producers of new knowledge, they assess and find new applications for existing knowledge, and they validate knowledge and values through their curricula. Third, they provide opportunities for social mobility and strengthen social justice and democracy, thus helping to overcome the inequities inherited from our apartheid past.*

The above quotation emphasises how crucial HE institutions are for attaining national development objectives. SA Universities are recognised as public institutions, constituted by an act of parliament, primarily funded by public resources, thereby making university employees, non-elected public officials (Friedman & Edigheji, 2006:4). The responsiveness of HE institutions to public needs and preferences are therefore key elements of HE accountability. Friedman and Edigheji (2006:15) explain that in SA communities characterised by poverty, unemployment, high rate of HIV/AIDS and under-development, “*higher education institutions will be considered irresponsible if they fail to address the*

*developmental challenges facing the new South Africa and, therefore, fail to demonstrate their social relevance*". External accountability in the SA context is thus also closely linked to public and social accountability.

Du Toit (2007:7) questions whether the ever increasing governmental and public accountability demands on SA universities and academics are indicative of a decrease in levels of trust of the government and the public in their ability to achieve their mandates, thus similar to such concerns in global context. Over-regulation, decrease in collaboration and the ever increasing gap between HE stakeholder demands for accountability and what HE institutions are willing and able to deliver, thus undermine the relationship of trust between HE institutions, academic employees and the DHET. Friedman & Edigheji (2006:20) note that if a balance existed between accountability and autonomy, it might result in HE institutions being naturally justly accountable to society. External control of the teaching and learning that occur within the institution would then be unnecessary, and the academic freedom of lecturers as the very foundation of professionalism in academic work will be protected.

Brinkerhoff (2001:22) explains that public organisations need the rule of law to operate effectively and that proper external accountability is therefore dependent on a well-designed national legal framework. Such a framework in the SA HE context is well-established as became evident during the overview and analysis of national HE (§3.2) and labour legislation (§3.3). SA HE institutions are held to account for the appropriate use of public resources and the offering of socially responsive qualifications via the requirements provided for in these national legislative instruments, but also via subordinate regulation such as the DHET White Papers (§3.2.2) and the regulatory documents for programme accreditation and institutional audits developed by the Council on Higher Education (CHE).

The CHE (2014) functions as the Quality Council for HE and is assigned to:

- *Develop and implement a system of quality assurance for HE, including programme accreditation, institutional audits, quality promotion and capacity development, standards development and the implementation of the Higher Education Qualifications Sub-Framework.*
- *To monitor and report on the state of the higher education system, including assessing whether, how, to what extent and with what consequences the vision, policy goals and objectives for higher education are being realised.*

The above responsibilities are mandated to the CHE's permanent sub-committee, the Higher Education Quality Committee (HEQC), established by the HE Act (101/1997). SA HE institutions went through the first cycle of comprehensive HEQC quality audits from 2004 to

2012. The purpose of the audits was to determine each institution's capacity for quality management of the core functions of teaching, research and community engagement through appropriate institutional policies, processes, strategies, systems and resources (CHE, 2014). The Framework for Institutional Audits (CHE, 2004a) and the Criteria for Institutional Audits (CHE, 2004b) served as guideline documents for institutional management structures during the preparation phase for the audits. Whereas the framework provided the context and process for the audits, the criteria guided the external peer and expert review teams during the institutional visits in terms of the quality management areas for which institutions were accountable.

The HEQC's understanding of quality "*encompasses fitness for purpose, value for money, and individual and social transformation*" (CHE, 2004a:5). The focus of the audits was therefore to determine whether, and to what extent, an institution's mission, aims, academic activities and resources provided for national priorities and needs. One of the criteria guided the review process for assessing institutional provisions for the management, monitoring and support of teaching and learning quality (CHE, 2004b:21).

Concerning the teaching-related work of the lecturer, this criterion expected of institutions to provide proof of "*quality management systems and initiatives for teaching and learning at both undergraduate and postgraduate levels; key quality improvement priorities with regard to teaching and learning with appropriate resources, time-frames and indicators of success; and on-going discussions and initiatives on new approaches to and innovations in teaching and learning.*" These expectations, although not part of formal national legislation and void of specific reference to expected performance criteria for adherence, indicate that there is a need for the regulation of teaching quality at national level in order for the DHET (2013:31) to reach its strategic goal of "*improving student access, success and throughput rates*". These expectations are similar to, but not as specific in guidance as the existing national Australian legislative instruments such as the Higher Education Standards Framework in the TEQSA Act (§4.3.3.3). Last-mentioned provides for the formulation of national quality standards for qualification design and teaching and learning, which found application in the national Threshold Standards (§4.3.3.4).

In addition to the institutional audits, the Criteria for Programme Accreditation (CHE, 2004c:1) determine the CHE's minimum standards for academic qualifications in SA. Whenever the academics of an institution want to have a new qualification accredited by the HEQC and registered by the South African Qualifications Authority (SAQA), they have to provide theoretical proof of adherence to standards that have been developed for these

criteria (CHE, 2004c:6). All programme designs are subjected to rigorous quality peer review, also for certain teaching-related criteria (CHE, 2004c:11), namely:

- i. Recognition of the importance of the promotion of student learning is reflected in the institution's central operating policies and procedures...*
- ii. A teaching and learning strategy is in place which:*
  - is appropriate for the institutional type as reflected in its mission... and mode(s) of delivery.*
  - has mechanisms to ensure that teaching and learning methods are appropriate for the design and use of learning materials and instructional and learning technology.*
  - provides for staff development opportunities where staff can upgrade their teaching methods.*
  - contains targets, plans for implementation, ways of monitoring progress and evaluating impact, and mechanisms for feedback and improvement.*

The above requirements are sufficiently broad to provide a basis for the teaching-related accountability of HE lecturers, but those requirements are an exercise on paper to provide written proof that the concerned institution has mechanisms in place to ensure that faculty and lecturers are capable of successfully offering the programme. For such requirements to be truly valuable to enhance teaching practices of lecturers across the board, a document with appropriate legal status should provide more detail in terms of teaching-related responsibilities (§6.3), with corresponding performance criteria for adherence that can be contextualised at institutional level (§5.2.2). Furthermore, if lecturers are to be held accountable for their performance of teaching-related responsibilities, it would be of value if these responsibilities were stipulated in institutional policies or regulations and in employment contracts or task agreements.

Institutional audits and programme accreditation reviews are accountability mechanisms dependent on transparency and honest one-way information transmission where the accountee (HE institution) must provide information to the accouter (DHET) with a view to either receive an accolade or avoid negative consequences (§5.2.1). The question remains whether these external accountability mechanisms ensure true accountability, or whether they rather encourage accountees to temporarily adopt alternative behaviours and provide the responses that are required for the review. Results of research on accountability in HE in the United States and Europe indicate that the attempts of governments to increase the accountability of academics through external mechanisms without sanctions often resulted in automated responses that did not necessarily change day-to-day behaviour of academics

(Huisman & Currie, 2004:548). This statement strengthens the rationale for the value of a juridical foundation for lecturer accountability wherein not only the teaching-related accountability of lecturers is more clearly defined, but the consequences for non-performance of accountability requirements at institutional level are explicated (Huisman & Currie, 2004:549).

## **5.4 INTERNAL ACCOUNTABILITY OF HIGHER EDUCATION LECTURERS**

### **5.4.1 Introduction**

Whereas external accountability as discussed above refers to the demonstration of accountable actions to external stakeholders such as government and the public, internal accountability particular to this study refers to lecturer accountability towards management, colleagues and students for actions and decisions in their teaching-related work. In keeping with fair labour principles, internal accountability can only be expected if lecturers recognise and understand the requirements of the tasks for which they are answerable, if they know who will assess their work performance, and what the resulting rewards or sanctions for task completion or non-performance will be (Breux *et al.*, 2009:310; Burke, 2004:2). In the context of this study, a juridical foundation for lecturer accountability should thus clearly establish the teaching-related responsibilities and standards of expected conduct of lecturers. In addition, they must know who their accounters are and what the consequences will be if they fail to act in an ethical or professional manner, or neglect their teaching-related responsibilities. Subsequently these accounters and the expectations of each are discussed.

### **5.4.2 The primary focus of the internal accountability of lecturers**

The student as university client is considered a primary stakeholder in the HE environment worldwide, with substantial influence to determine the perception of teaching quality within a university, and ultimately the reputation of the institution (Altbach *et al.*, 2009:52). Cheng (2012:790) contends that lecturers thus have an ethical and moral responsibility for student learning, not only towards the students themselves, but also towards their institutional employers and indirectly towards parents or guardians for value for money spent on the HE of their children.

If lecturers are to accept responsibility to answer for student learning, the expected teaching-related responsibilities (§6.3), and corresponding standards of achievement associated with teaching quality and student success, should be transparent and consistently monitored. Yet, contrary to the call for clear task requirements and standards of conduct as essential to the recognition of accountability in the employer-employee relationship (§5.2), those teaching-related responsibilities are often not clearly defined in either institutional policies

(§3.4.2) or employment contracts (§3.4.3), thereby complicating the delineation of lecturer accountability. Maila (2007:496) is adamant that “*excellence in educational quality provisioning and accountability are obligatory functions for higher education*”; thus reiterating the necessity of standards for defining so-called excellence in quality provisioning and a fair system that can hold academic employees accountable to perform to such standards. The nature of the teaching-related accountability of the lecturer was further explored from the perspectives of lecturers themselves during the empirical investigation of this study (§8.3.2).

The link between the concepts of accountability and quality assurance in HE is unmistakable (Altbach *et al.*, 2009:52; Biggs, 2001:221; Maila, 2007:695). For purposes of this study, the focus of the internal accountability of lecturers thus centres on the enhancement of teaching quality with a view to improve student learning (§6.2.4). This focus is reiterated by Devlin and Samarawickrema (2010:112) when they equate quality in university teaching with teaching that is oriented to ensure student learning in specific discipline contexts, but also with more generic cross-disciplinary skills such as problem solving and critical thinking. They emphasise that such an approach to teaching quality demands of lecturers an appropriate set of teaching skills and practices, thereby implying that professional teaching development of lecturers should be a priority for any institution of higher learning.

McWilliam (2004:2, 7, 10) asserts that accountability for teaching quality requires of academics a realistic *risk-consciousness*, thus an awareness of the possibility of declining standards, mismanagement of resources, and students at risk of failing. Such awareness must be accompanied by appropriate measures to regulate and address such threats to provide students with optimal opportunities for success (Breux *et al.*, 2009:308; McWilliam, 2004:7, 10). It is thus affirmed that when academics feel personally responsible for student learning progress, they will be professionally obligated to develop and adapt teaching practices when student learning is perceived to be of an unacceptable standard.

In the SA context, Jansen (2004:310) echoes the need for enhanced lecturer performance and accountability for teaching outcomes in the wake of more stringent performance management systems and institutional benchmarks in the HE environment, culminating in the focus on better student pass rates. He explains that lecturer responsibilities towards students as university clients are more pronounced than in previous decades due to greater competition amongst universities for student enrolments and survival. Barrie *et al.* (2005:643) maintain though, that if an institution aims to improve teaching and learning quality, there is a need for a clear theoretical understanding throughout the institution of what quality teaching and learning entails (§6.2.4). The development and implementation of a clear and coherent juridical foundation for the accountability of SA HE lecturers can serve as

an institutional measuring instrument to determine the accountability of lecturers in their teaching environment with a view to not only enhance teaching, and consequently also learning quality, but also to improve lecturer security in the workplace.

The SA DHET (2013:32) recognises poor support for lecturer professional development, and lack of recognition and reward for excellence in undergraduate teaching, as two of the prime reasons for low student success rates. The improvement of success rates is positively correlated to high quality undergraduate teaching and learning, thus directly linked to the teaching-related work of the lecturer. This statement implies that the professional development, recognition for teaching excellence, and retention of academics should be a national and institutional strategic priority that requires decisive action from the national government. These issues pertain to the unsatisfactory employment conditions of lecturers that are further explored in section 6.2.2, and formed part of the empirical study to determine how they influence lecturer security (§8.4).

### **5.4.3 Collegial and professional accountability**

Institutional and faculty management, and colleagues working in the same discipline, school or department, are also viewed as important internal stakeholders that determine lecturer teaching-related accountability (Dill & Beerkens, 2012:344). This so-called collegial accountability encompasses downward accountability where academic managers are responsible to subordinates for ensuring participatory decision-making and employee empowerment; as well as horizontal accountability where colleagues are accountable towards one another in their work environment (Burke, 2004:3). Last mentioned necessitates colleagues to build respectful relationships while striving towards effective collaboration with a view to enhance the realisation of teaching and research targets (Jacobs & Wilford, 2008:6). While the governance of universities is becoming increasingly more managerial in nature (Akerlind, 2005:5), academics still find collegial accountability whereby peers, rather than the bureaucracy, hold them to account for quality, efficiency and effectiveness in their academic work, more meaningful as a quality assurance mechanism (Anderson, 2006:169; Altbach *et al.*, 2009:xi; Dollery, Murray & Crase, 2006:86).

Many academics are open to positive critique from peers with regard to teaching practices and rely on the “*professional integrity of their colleagues*” to improve the quality of their own teaching (Huisman & Currie, 2004:530). This is a so-called soft accountability mechanism dependent on intrinsic rather than extrinsic rewards (Huisman & Currie, 2004:550). Moreover, since many academics are motivated more strongly by shared intrinsic interest in their academic work than by the (lack of) material rewards that academia offers, colleagues who share a discipline act as reciprocal sources of intellectual stimulation (Akerlind, 2005:4).

According to Erkkila (2007:8), professional accountability is based on “*deference to expertise within an organisation*” and relies on a set of internalised norms and ethical standards that result in appropriate professional and ethical conduct amongst colleagues (§1.4.5). This type of accountability yields professional credibility and is usually subject to strict expert scrutiny and peer-oriented sanctions. Professional accountability will be evident in task agreements that afford employees a high degree of autonomy, by implication where employees are trusted to make the right decisions based on an employment history of ethical and professional behaviour and respect for their practice (Romzek, 2000:26).

In contrast, quality assessment of teaching and learning imposed as a top-down accountability mechanism (such as institutional audits, §5.3.1) often results in distrust between the accouter and the accountee, negatively impacting their accountability (Cheng, 2012:785). Such assessments are often experienced by academics as doubt in their professional judgement, while their aim is actually to make the work of the lecturer more transparent and thus improve the quality of teaching practices (Cheng, 2012:789). It is therefore important that accountability mechanisms implemented for the purposes of enhancing the quality of teaching and learning should not be distant from the work of the lecturer and should encourage moral commitment from academics to ensure the internalisation of teaching responsibilities. When governments develop and monitor effective accountability policies at macro level, institutions have to translate these into feasible institutional mechanisms to ensure teaching-related ethical accountability at the micro level (Huisman & Currie, 2004:549).

Although the professional status of lecturers is as of yet not informed by a formal professional code of conduct or regulated via a professional body, issues further explored in section 6.2.3, it is accepted that within the HE environment only peers will be sufficiently knowledgeable regarding contextual and discipline-specific issues to hold other scholars to account for research and teaching quality. There is thus a strong preference for internal benchmarking, collegial accountability, and peer review in the academe (Dill & Beerkens, 2012:351, 354), aspects that were noteworthy to inform the guidelines to improve the existing juridical foundation for lecturer accountability with a view to enhance security (§9.3).

#### **5.4.4 Self-accountability**

Another important internal accouter that influences the teaching-related accountability of the lecturer, is the lecturer him or herself. Cheng (2012:791) and Hall *et al.* (2007:407) emphasise that for accountability to become an instrument for improvement instead of control in the academic environment, academics have to realise that personal ethics and values are essential elements in the notion of professionalism, and that they need to hold

themselves to account for their decisions and conduct to the benefit of their stakeholders. If moral commitment is at the centre of academic accountability, and “*if academics are willing to act in a transparent, fair and equitable way, they will become both accountable and responsible for their work*” (Cheng, 2012:791). When employees experience accountability in a positive manner, they will *buy in* to the vision, objectives and values of an organisation and feel the need to demonstrate competence in assigned tasks, which will have a positive effect on their commitment towards organisational goals (Hall *et al.*, 2006:87). In contrast, when accountability is experienced as negative, such as when employees feel that the demands of the job extend beyond their capabilities, they may experience accountability as a threat, resulting in stress and poorer performance (Hall *et al.*, 2006:90). Self-accountability thus relates to the measure of accountability that an employee feels at work, referred to as felt accountability, and of particular interest to this study as is forthwith explained.

Hall *et al.* (2007:408) identify four main elements of felt accountability, namely:

- 1) *the source of an individual's sense of felt accountability in the firm (accountability source); e.g. institutional policies, organisational rewards and punishments, personal loyalty, internal ethical code;*
- 2) *the degree to which individuals are held accountable for their decision process or the outcomes of their decisions at work (accountability focus); if the focus is on process accountability – the procedures employed when making decisions are more important than the actual outcome. Outcome accountability is the contrary – regardless of the means – the outcome is most important;*
- 3) *the degree to which an individual is held accountable for significant outcomes (accountability salience); and*
- 4) *the degree to which an individual is held accountable to multiple persons and/or for multiple outcomes in the same organisation (accountability intensity).*

Since the empirical part of this research was informed by the phenomenological paradigm, it was deemed necessary to determine lecturers' perceptions of the nature, or elements, of their felt accountability, namely accountability source, focus, salience and intensity. The elements informed the formulation of a number of items of the interview schedule. These questions were asked to develop depth of understanding of the nature of the lecturer's teaching-related accountability towards different internal and external HE stakeholders, of which the results are discussed in sections 8.3.1 to 8.3.3.

It stands to reason that should HE lecturers know the nature, focus and source of their accountability, and to whom they are accountable for teaching-related outcomes, they should experience their accountability as positive and feasible, thereby enhancing their security in

their work environment. Hall *et al.* (2007:409) are of the opinion that should employees experience high multiple accountability demands, they will perceive their working environment as more stressful and less secure. As evident from the discussion on the teaching-related internal and external accountability of the HE lecturer (§6.2), and the deteriorating working conditions of lecturers, particularly in terms of work overload (§6.2.2), accountability demands, salience and intensity are all significant and should thus have a negative influence on lecturer perceived security. The results of the empirical investigation provided further clarity in this regard (§8.3 & §8.4.2).

## **5.5 SUMMARY OF CHAPTER**

Chapter 5 provided a general conceptualisation of accountability, with specific focus on the elements of answerability, transparent standards of conduct and appropriate sanctions as requisites for holding individuals or organisations to account. Literature is clear on the importance of clearly defined responsibilities, task requirements and expected professional conduct, with corresponding and fair sanctions or due consequences for non-performance, breach of contract or unethical conduct, in order for an accountability system to contribute to transparent use of public resources, answerability to different stakeholders and effective outcome realisation within organisations.

In defining the concept of lecturer accountability, it became clear that lecturers are held to account for teaching-related outcomes by multiple internal and external stakeholders. It was established that since SA universities are recognised as public institutions regulated by government, and primarily funded by public resources, their responsiveness to social and economic needs of SA societies is central to lecturer external accountability. A standing issue that was identified is the difficulty in finding a balance between institutional autonomy, academic freedom and public accountability in the HE environment. This imbalance results in a relationship of distrust between HE institutions and external stakeholders due to stringent external evaluation systems such as national institutional audits, specifically devised to monitor and assess the effectiveness of the quality assurance mechanisms of HE institutions, their productivity and social responsiveness.

The role and responsibilities of the CHE as the quality council for SA HE was briefly discussed, with a focus on institutional audit and programme accreditation criteria, specifically those criteria pertaining to the quality assurance of teaching and learning. Although these criteria are an indication of the need for the regulation of the teaching-related work of the HE lecturer to assure the quality of teaching and learning at national level, the criteria are not qualified by clear tasks requirements or standards of conduct that are requisites for an effective accountability system. Moreover, it was determined that attempts

by governments to increase the accountability of academics through external mechanisms without appropriate sanctions often result in automated responses to appease accounters and not in increased accountability in teaching-related work. There is thus plainly a need to improve the existing juridical foundation for lecturer accountability to address these issues and to influence lecturer security positively.

The internal accountability of HE lecturers was also investigated. It was found that lecturers are primarily accountable to students for teaching quality and corresponding student learning. Furthermore, the importance of collegial and professional accountability as preferable to top-down accountability mechanisms was established. Lecturers clearly prefer internal benchmarking and peer review to improve teaching practices, and are open to positive critique from peers since they respect the professional integrity of their colleagues. Professional accountability is also linked to the relationship of trust between the lecturer and his or her employer, often based on an employment history of ethical and professional conduct. Accountability mechanisms implemented for the purposes of enhancing the quality of teaching and learning must therefore be developed in collaboration with academics from different disciplines with a focus on teaching excellence.

The final internal stakeholder identified as accounter in the teaching-related work of the lecturer, is the lecturer him or herself, more specifically the personal ethics and values that signify professionalism and moral commitment in academic work. The concept of felt accountability as the measure of work-related accountability that an employee experiences, was explained as it relates to the purposes of this study. Lecturer perceptions of accountability sources, accountability focus, salience and intensity were identified for their significance in the determination of lecturer felt accountability in teaching-related work.

The results of the review of literature on accountability in this chapter, together with the results of the review of literature on the work of the lecturer that are reported in Chapter 6, serve to identify the characteristics that constitute accountability in general, and in particular the accountability of lecturers in their teaching-related work. The final conclusions are offered in section 9.2.4.

## CHAPTER 6:

# THE TEACHING-RELATED WORK AND SECURITY OF THE HIGHER EDUCATION LECTURER IN GLOBAL CONTEXT

### 6.1 INTRODUCTION

A statement made by the American Association of University Professors (AAUP, 2006:196) with regard to the work of the HE lecturer is as relevant to the SA HE context as it is in the US, the UK and other parts of the world:

*Faculty workload combines teaching, scholarship, and service; this unity of components is meant to represent the seamless garment of academic life, and it defines the typical scholarly performance and career. Higher education works best when faculty members teach with enthusiasm, engage in scholarly activities and research, and are deeply committed to collegial, community, and professional service. All of these are vital components of the work of faculty. Ideally they reinforce each other, to the benefit of students and institutions and as major motives and sources of satisfaction in the life and career of each faculty member.*

Although the statement strongly advocates to refrain from separating the three main activities of HE lecturers, it is, however, overly idealistic within the context of the modern-day university to argue that the three components bear equal weight. Whilst many lecturers might have a predilection for teaching and find research rather cumbersome, they realise that teaching prowess is not afforded the same status as research when it comes down to establishing a professional reputation or competing for promotion to (full) professorship or tenure at an elite university (Davies & Thomas, 2002:181; Morley, 2003:28).

Irrespective of whether promotion to professorship is dependent on accredited research and publications, the call for excellence in teaching, and undergraduate teaching in particular, has steadily been increasing over the years, proclaiming a need for a balance between undergraduate teaching quality (for enhanced student learning), and research productivity (Bathmaker & Avis, 2005:47; Enders & Teichler, 1997:348; Healy, 2000:177-178; Nicholls, 2004:611-612; Trigwell, 2001:65; Young, 2006:198). This change in focus is largely due to the “customer-care revolution” in HE where the rights and satisfaction of students as paying consumers and HE stakeholders have become more prominent (Morley, 2003:129). She points out that in the modern UK HE environment, the rights and satisfaction of students seem to have become the responsibilities of the institution and its lecturers (Morley, 2003:134). This phenomenon is also prevalent in the SA context, as Jansen (2004:309)

indicates that the new managerialism evident in SA HE requires increased responsibility towards students as clients, but also as “*critical resources*” since the survival of universities in a competitive environment has become dependent on strong enrolments.

In the HE environment it is, however, risky to define quality of teaching and learning only in terms of student and parent satisfaction, to the detriment of the expectations of other stakeholders, such as possible employers. Student satisfaction will always mean different things to different groups of students in different contexts and should therefore not be the only yardstick for quality measurement (Houston, 2008:64; Schuck, Gordon & Buchanan, 2008:544). Houston (2008:62) explains that endeavours to determine teaching quality should ultimately aim at improvement of teaching and learning, not merely at customer satisfaction, and should therefore be measurable. As discussed in section 5.2.2, measurability necessitates standards - clear task requirements and criteria for adherence to expectations and acceptable conduct. If institutions or other stakeholders want to hold lecturers to account for teaching quality and resulting student learning, acceptable standards for teaching quality should first be defined (§6.2.4), and their teaching-related responsibilities should then be delineated (§6.3).

In this regard, section VII of the Recommendation concerning the Status of Higher Education Teaching Personnel (UNESCO, 1997) is of particular interest in that certain duties and responsibilities specific to HE lecturers in their teaching capacity are recommended. As explained in section 3.3.1, these UNESCO recommendations are not legally binding on UNESCO member States like South Africa, but rather embody internationally agreed guidelines for the responsibilities of HE teaching staff. These responsibilities are further discussed in section 6.2.3.

The assurance and enhancement of teaching and learning quality in HE are major concerns for institutions worldwide (Biggs, 2001:221; Cretchley *et al.*, 2014:653; Devlin & Samarawickrema, 2010:111; Fitzmaurice, 2010: 45; McInnis, 2000:143). According to Devlin and Samarawickrema (2010:111) “*having a shared understanding of what it means to be an effective university teacher forms the basis of ensuring quality*”, not only at institutional level, but also at national level. For purposes of this study, Houston (2008:69) provides an appropriate introductory focus for defining quality in the work of the HE lecturer, placing effective learning at the heart of teaching, research and service activities:

*Everything in the university is about how to produce knowledge and capabilities – how to bring about learning. Teaching, research and community service are not ends in themselves, but rather means to promote learning. Teaching promotes learning for individuals through knowledge being formed which is new to the individual. Research*

*contributes to learning for humanity through the formation of knowledge that is new in the absolute sense. Service and consultancy contribute to local learning for communities (geographical, industrial and other types) through knowledge being formed for particular purposes.*

In section 6.2.1 the changing nature of academic work, and the research versus teaching debate in HE are discussed, while deteriorating working conditions of lecturers and its influence on their psychological well-being and security are clarified in section 6.2.2.

In light of the above, the question can be asked as to whether, in the absence of quantifiable measurement criteria for the quality of the teaching-related work of the lecturer, a clear foundation for lecturer teaching-related responsibilities can be developed and then used as a yardstick to assess and appropriately reward quality teaching. In the sections that follow, attention is therefore also given to the teaching-related responsibilities that lecturers accept with reference to their many roles in the HE environment (§6.3). Also included is a discussion on the perceived professional status of the lecturer's work and its influence on the subsequent security of lecturers (§6.2.3).

## **6.2 THE LECTURER IN A CHANGING HIGHER EDUCATION ENVIRONMENT**

### **6.2.1 Accountability and the changing nature of academic work worldwide**

Irrespective of seniority or status, the work of HE lecturers at any institution of higher learning worldwide includes teaching in some form or another. Based on research done in New Zealand, Houston (2008:71) found that although the HE respondents found research to be important, they rated teaching as more meaningful to society and the general work force, thereby placing quality teaching at the centre of the work of the lecturer.

Bryson (2004:38-39) contends that although the timing, pace and extent of developments in HE show some variation across countries, there is broad consensus that the main changes that impact on the teaching-related work of the lecturer encompass, amongst others:

- *the requirement of massification and the resulting ever-expanding student population without a corresponding increase in funding or resources resulting in a much reduced staff:student ratio;*
- *the merging of colleges and universities resulting in increased demands on institutional and employee diversity within the HE sector and greater competition for available resources;*
- *a focus on standards and increased accountability to demonstrate value for money via external accountability mechanisms such as institutional audits;*

- *the changing teaching-learning environment wherein the lecturer is no longer the guardian and disseminator of knowledge, but the facilitator and coach for student-centred learning via different educational information technologies; and*
- *emphasis on producing graduates with greater employability.*

The above changes are an indication of the increased work pressures that lecturers have to contend with and the measure of accountability expected from different stakeholders (§5.3 & §5.4). With regards to the public nature of HE teaching and the responsibilities of the lecturer towards society, Poskanzer (2002:63) proclaims that teaching involves the stimulation of critical thinking in students, which ought to be evident to parents and should be evaluated by faculty colleagues, university administrators, government authorities and alumni as employers. Teaching outcomes, content and practices of HE lecturers thus can come under scrutiny from various internal and external stakeholders holding lecturers to account via standardisation of expectations for what happens in university classrooms.

Without doubt students, external stakeholders and society at large have a vested interest in making sure that whatever happens in the university classroom is worth the price of tuition (§5.3). Davies and Thomas (2002:182) and Morley (2003:133) maintain that students in the UK have become increasingly critical of the quality of their education and that those who are dissatisfied with the outcomes and content thereof will more easily turn to the courts for restitution. Teaching methods, materials and tools should therefore keep pace with developments in the HE environment to ensure acceptable learning outcomes and avoid court actions or disciplinary procedures by authorities. According to McInnis (2000:150) the high status afforded to research in the Australian HE context with the concomitant increase in time spent thereon, does not negate the demand for quality teaching. This imbalance puts academics under excessive pressure and forces universities to improve the teaching capabilities and skills of lecturers. As noted in section 4.3.2, teaching-only positions at Australian universities have thus become a common occurrence with a view to relieve tenured academics of teaching workloads and allow them time for research endeavours.

It is logical to assume that the quality of teaching is central to the effectiveness of student learning, but Brew (2003:4) adds another dimension when stating that there also has to be a more pronounced connection between what is taught and what society and industry need (§5.3). An institution should only appoint lecturers for classroom teaching who have proven that they can enhance student learning and the employability of graduates. This can only be ensured if the expected roles and responsibilities that will result in effective teaching, are clearly defined. In addition, lecturers who prove that they can fulfil those roles and

responsibilities effectively should be appropriately rewarded with promotion or alternative types of public recognition to sustain such behaviours.

Askling (2001:171) has proven the statement above by noting that a negative attitude towards teaching workload in Swedish HE was countered when the national system for appointments and promotions was amended to include a teaching-oriented career path that balanced research outputs with HE teaching qualifications and student through-put rate. Similarly, Shin and Jung (2014:610) emphasise that academic job satisfaction is high in countries such as Mexico, Brazil, Malaysia and Argentina where there exist strong teaching-oriented HE systems. Healey (2000:176) asserts, though, that if teaching value is to be equalised with the esteem afforded to research, lecturers will have to be willing to open their teaching practices to the observation and scrutiny of their peers and appointed assessors for evidence of effectiveness and quality, or with a view to improve teaching practice. This would, of course, require appropriate criteria for teaching excellence, and corresponding rewards when such criteria are equalled or surpassed. Any accountability mechanism for the teaching-related duties of the HE lecturer should thus include peer observation and evaluative assessment (§5.4.3), given that these activities are implemented with a clear purpose of quality improvement and according to transparent criteria – despite the additional workload they may engender.

## **6.2.2 The deteriorating working conditions of the lecturer and its influence on lecturer security**

The workload of any HE lecturer worldwide normally encompasses the aggregate of hours spent on various forms and demands of teaching (inclusive of many hours of preparation, student assessment, curriculum revision and development, laboratory work, group tutorials, practical training in clinics or studios or moot courts, field work, mentoring and guiding of postgraduate students, etc.), of research and resulting publications, participation in and presentations at conferences and other academic endeavours, as well as the many varieties of professional and community service. An increased demand for academic support to high numbers of students, the development of study materials for new technologies, and learning to use new teaching methods such as problem-based learning and collaborative learning strategies in the classroom, have added substantially to lecturer work hours and job stress, not only in the American, British and Australian context (AAUP, 2006:197; Cheng, 2010:267; Kinman *et al.*, 2006: 25; and McInnis, 2000:145), but also within South Africa.

In Swedish context, Askling (2001:170) describes the working hours of the different categories of academic staff as “*substantially more than the stipulated 40-hour week*”. A recent statement by the AAUP (2014) indicates that on average academic staff at American

universities work  $\pm 55$  hours a week, inclusive of paid and unpaid hours, on and off campus. The same can be said for the culture of long hours in UK universities (Kinman & Court, 2010:415; Morley, 2003:93). The Association of American Colleges and Universities (AACU, 2006:1) notes that the responsibilities of the lecturer centre around student mastery of learning outcomes or the so-called graduate attributes that students have to demonstrate at the completion of their studies:

The level descriptors developed by the South African Qualifications Authority (2012) as national guideline for determining expected learning achievement and applied competences of graduates for qualifications at different exit levels on the HEQSF (§3.2.5), accentuate the same responsibility for SA lecturers as stated by the AACU above. Lecturers not only have to develop these outcomes, but also have to facilitate student learning to ensure the attainment of expected attributes to enhance the employability of graduates. It is important to note that the responsibility for the facilitation of student achievement of learning outcomes does not begin and end in the university classroom. On the contrary – that which precedes outcome mastery is in essence what distinguishes a good lecturer from a teaching scholar.

The changing HE environment has thus resulted in the diversification of the lecturer's roles and functions to that of HE teacher, curriculum developer, policy implementer, researcher, tutor, administrator, manager, writer, facilitator, advisor and others, and this has taken its toll on faculty in terms of job-related stress and levels of dissatisfaction at work (Askling, 2001:170; Churchman & King, 2009:509; Rothmann *et al.*, 2008:404). Kinman *et al.* (2006:20) profess furthermore that the lack of corresponding increases in remuneration and support, has increased job stress to the level where many UK academics consider leaving the HE sector. Moreover, the levels of psychological distress experienced by academics “*exceed those of other professional groups and the general population*” (Kinman *et al.*, 2006:25). The increasing workloads leave lecturers no time for reflecting on what quality of teaching actually entails (Feigenbaum & Iqani, 2013:46).

Marginson (2000:34-35) reasons that the status of the academic profession and its customary practices and traditional norms are eroded by increasing loss of lecturer autonomy in curriculum development, increased lecturer workload without corresponding increase in resources, loss of job security with the growing use of casual and part-time academic staff, employment of a growing number of non-academic professional staff for the development of instructional materials and teaching technologies, and the growing managerialism in institutional management. He therefore advocates the careful demarcation of academic, administrative and professional support labour to ensure a constructive collaborative environment for the strengthening of recognition for the academic profession.

Although accountability for quality of teaching to enhance learning is becoming more prominent, teaching is seldom recognised and rewarded to the same extent as research endeavours and outputs in the UK, US, Europe and Australia (Akerlind, 2005:5; Carney, 2013:66; Chalmers, 2011:25; Cretchley *et al.*, 2014:649; Young, 2006:192). Lecturers who purposefully choose teaching excellence as career path, experience less prestige and academic value than those who pursue research paths and thus perceive the status of teaching to be much lower and rewards for teaching efforts are noticeably lacking (Young, 2006:194). Lecturers committed to their teaching rather than to research outputs thus often seem to sacrifice career promotion opportunities (Chalmers, 2011:25; Morley, 2003:29).

In this regard the AAUP (2006:197) stresses the high priority that should be credited to teaching and the institutional reward systems that need to be in place to reflect “*the fundamental importance of effective teaching*”. There is however a dearth of universally agreed-upon measures for evaluating teaching quality, leading to poor recognition and low rewards (Adams, 1998:425). Young (2006:197) agrees when he argues that teaching is valued less highly than research because research outputs are easily assessed by means of peer review, and quantifiable in number of publications in academic journals. As stated above, the assessment of the quality of teaching presents greater challenges.

As fair labour practices, inclusive of favourable and healthy working conditions, are required by the SA Constitution and the stipulations of SA labour legislation, the guidelines for the improvement of the existing juridical foundation for lecturer accountability should include lecturer-specific conditions of work that will have a positive impact on determining fair teaching-related workload and subsequent rewards and recognition. Governments and universities should collaborate in an attempt to regulate and manage workload and quality issues to the benefit of the lecturer. A fair and transparent workload allocation model to determine the correct mix of duties of every individual lecturer should contribute positively to the professional security of academic staff.

### **6.2.3 The professional status of the lecturer and its influence on lecturer security**

Until the late 1950’s the position of university professor had been held in high regard globally, and recognised as professional in nature. Mainly in order to facilitate the throughput of the growing number of undergraduate students and to free the established professors to continue with their research, the less senior position of university lecturer was established at that time, causing a “*division of labour between categories of academic staff*” (Askling, 2001:166-167). Although this division of labour meant in effect created two different career

paths within the HE sector, the career of lecturer is as yet to be formally endorsed with professional status.

A generally acceptable perception of professional status in terms of careers is afforded to engineers, doctors, advocates, chartered accountants, and the like due to the recognition of their professional qualifications. Professional qualifications are accredited by Professional Bodies, which are the watchdogs guarding over the quality of the qualifications delivered by certain universities. Professional Bodies also hold the practising professional workers accountable for upholding certain standards, including ethical standards, in work delivery, which usually entails an ethical code. The question is whether lecturers, who also have professional qualifications in their respective disciplines, are also viewed as following a professional career in their teaching capacity. Another question is whether professional career status is synonymous with professionalism as such, which is defined as: “... *an individual’s adherence to a set of standards, code of conduct, or collection of qualities that characterise accepted practice within a particular area of activity*” (Universities UK, 2004:1).

Postareff, Lindblom-Ylänne and Nevgi (2007:557) argue that lecturers need acquire expertise in pedagogical thinking and skill to be recognised as effective (also professional) university teachers. In recent years, HE institutions worldwide have begun to require of lecturers to undergo some form of professional training in the art of teaching. Formal teaching qualifications are already compulsory for lecturers at universities in Norway, UK and Sri Lanka, while non-formal training (i.e. periodic short courses without accreditation as qualifications), though not yet compulsory, is strongly advocated at universities in Finland, Holland, Australia, New Zealand and Sweden (Postareff *et al.*, 2007:557; Trowler & Bamber, 2005:80). Flexner (2001:155) supports such a notion when he maintains that a profession cannot be built merely on academic and theoretic expertise, but has to include a clear field of practice with concrete tasks and a definite purpose, like the field of Architecture which relies on design principles, mathematical equations, physics, etc. to design and construct buildings. In this context university lecturers can only be deemed professionals if they are strongly grounded in the knowledge and understanding of the specific discipline of teaching-learning, within a clear field of practice, namely HE teaching, with the aim of preparing students for the world of work.

Koliba (2007:322) adds that a focus on the scholarship of teaching (§6.2.4) with ensuing publications about lecturer teaching practices in peer-reviewed disciplinary teaching journals, provide further professional development opportunities as well as recognition of lecturers as master teachers. He also points out that there is a growing acceptance in the academic community to recognise the scholarship of teaching as viable for promotion opportunities and

thus as a contributing factor to lecturer professional status (Koliba, 2007:325). Braxton (2011:80) adds academic rank, a concomitant of scholarship, as a further determinant of a lecturer's professional status. Higher rank such as professorship equates with higher professional status which in turn increases the lecturer's visibility, accountability and expected professional conduct.

Irrespective of the opinions of different researchers on the topic of the professionalism of the lecturer, professionalism as such is always connected to accountability to internal or external stakeholders (§5.3 & §5.4). Schuck *et al.* (2008:541) agree that accountability is closely associated with professionalism, since professionalism implies “*the ability to take responsibility for our own actions - to make decisions and judgements based on sound thinking, reflection and knowledge of the context in which we are operating*”. They question the so-called positive impact of external accountability in HE worldwide (§5.3) and advocate that internal accountability (§5.4) better “*aligns with a core aim for higher educators: being professionally responsible.*” Their view is reiterated by Cheng (2012:786) when he emphasises that academics often view external accountability mechanisms as a lack of trust in their professional judgement and a threat to their academic freedom (§5.4.3).

One of the guiding principles of the Recommendation concerning the Status of Higher Education Teaching Personnel (UNESCO, 1997:27) reads as follows (§3.3.1):

*Teaching in Higher Education is a profession: it is a form of public service that requires of Higher Education personnel expert knowledge and specialized skills acquired and maintained through rigorous and lifelong study and research; it also calls for a sense of personal and institutional responsibility for the education and welfare of students and of the community at large and for a commitment to high professional standards in scholarship and research.*

The above principle speaks directly to the professional status of the work of lecturers and recognition for expertise and skills that are essential for the education of the future workforce of a country. Akerlind (2005:12-15; 2011:183) is of the opinion that a stronger focus on the professional development of HE lecturers and recognition for their excellence in teaching will increase the productivity, efficiency and quality of their work. This in turn will enhance their credibility in the eyes of the public and will improve academic standing and the attractiveness of a career in HE (Akerlind, 2011:183). Governments and institutions should therefore take responsibility to improve such status through measures such as professionalising a career in academics, requiring continuous professional development, and adjusting remuneration befitting to such status (Locke & Bennion, 2013:223).

When conducting a qualitative study in the UK, Cheng (2009:195-196) found that all the academic participants were of the opinion that their work was a profession, although their interpretation of what it meant to be a professional varied. Those who taught in disciplines accredited by professional bodies viewed “*being professional to mean being recognised and accredited by a professional body or being a member of that body*”. The remaining participants, whose disciplines were not allied to a specific professional field, provided the following reasons for viewing their work as a profession:

- *Their job has standards and practices agreed as good and defensible by professionals in the same discipline area (high level of education and requirements).*
- *They possess the ability to do their job efficiently and effectively in their discipline field (skills; high-level expertise; and a specialist role).*
- *They conduct themselves according to acceptable behaviour for the promotion or development of their discipline (adherence to standards; conscientious workmanship to known standards; principles embodied in the codes of their profession).*
- *They work ethically (committed to standards and rules of the profession; responsible to students and to the development of knowledge).*
- *They have a measure of academic freedom (determine their own work practice), peer governance and autonomy.*

McGettrick (2005:4-5) also views teaching as a profession since university teachers are entrusted with the responsibility of preparing students to fulfil their future roles in society with competence, displaying positive values to the benefit of the communities in which they will serve. In this context lecturers should account for the influence that their teaching and behaviours have on the development of their students’ personal and professional competences. Indirectly, this view supports Davies and Thomas’s (2002:181) notion that the status of HE lecturers is in essence derived from a reputation earned from students and the academic community at large. They explain that passion for and dedication to teaching and service, and recognition for research outputs and discipline expertise, rather than strict institutional accountability mechanisms, determine lecturer esteem.

An example of a professional body in the HE environment, which has been created in the UK to give recognition to and establish the professional identity of lecturers in their teaching role, is the Institute for Learning and Teaching (ILT). Nicholls (2004:35) quotes the following behavioural requirements for members of the ILT:

- *Commitment to teaching scholarship, both generally and within their own discipline.*
- *Respect for individual learners and for their development and empowerment.*

- *A commitment to the development of learning communities, including students, teachers and all those engaged in learning support.*
- *A commitment to encouraging participation in HE, and to equality of educational opportunity.*
- *A commitment to continued reflection and evaluation and consequent improvement of their own practice.*

Although Schuck *et al.* (2008:541) agree with the above requirements as measures of professionalism in HE practice; they question whether adherence to such requirements will necessarily improve student learning. Thus, while the above behavioural requirements can serve to inform the development of a nationally recognised code of conduct for lecturers in the SA HE environment, such a code should be strengthened by an improved juridical foundation for lecturer accountability in teaching-related work to have a positive influence on lecturer security in their labour environment.

A code of conduct whereby members of a profession can hold each other to account is non-negotiable for the establishment of a profession (Cheng, 2012:791), along with “*a set of internalized values and specific standards congruent with professional integrity and loyalty, what is referred to as a ‘professional habitus’*” (Beck & Young, 2005:188). Du Toit (2007:28) adds that professionalism in the HE context should be grounded in professional self-regulation where academics determine the standards for teaching quality and the grounds for promotion and the legitimacy of scholarly work through peer review. The argument made by Postareff, Lindblom-Ylänne and Nevgi (2007:557) that lecturers need acquire expertise in pedagogical thinking and skill (i.e. attain a professional qualification in HE teaching and learning) to be recognised as effective (also professional) university teachers, also applies.

#### **6.2.4 The requirements of teaching quality and its influence on lecturer security**

The global drive for accountability in HE over the past decade has seen several governments establishing bodies and frameworks to monitor and measure teaching quality, yet without necessarily providing a clear definition of what teaching quality entails (§5.3 & §5.4.2). Quality in this context is complex and often contextual in nature, but substantive research has revealed that lecturers across disciplines, cultures and international borders (UK, Australia, Canada, China, Hong Kong, Singapore and the USA) view quality in HE teaching as inextricably linked to the quality of student learning, thus signifying the existence of an international community of practice in this regard (Kember & McNaught, 2007:13-17, 23). A general definition of quality teaching should thus aim to provide general principles as to what constitute good teaching practices for the express purpose of enhancing student learning.

According to Devlin and Samarawickrema (2010:111), quality teaching “*draws on extensive professional skills and practices and high levels of disciplinary and other contextual expertise*”. Such teaching is characterised by the meticulous planning of discipline-specific learning that is appropriately quality-assessed and focused on active student learning and empowerment to think critically and creatively. Within this context teaching develops a deep approach to learning whereby students will relate new knowledge to their own previous knowledge and experiences, thereby enhancing their own understanding and ability to apply what they learn (Kember & McNaught, 2007:25). Teaching should thus be student-focused rather than lecturer-centred, and learning must be viewed as a continuous process of knowledge construction rather than knowledge transfer, with students as co-creators of knowledge and partners in learning (Brew, 2003:11-12; Starr-Glass, 2011:1; Trigwell & Shale, 2004:534). Lecturers should furthermore assess and document their teaching practices for publication of the results in the growing number of disciplinary peer-reviewed teaching journals, thereby creating opportunities for peer and student assessment of, and feedback on, the perceived effectiveness of teaching as a means to improve teaching quality and student learning experiences (Horspool & Lange, 2011:74). Such research could then lead to nationally and internationally agreed-upon standards for excellent teaching practices.

Devlin and Samarawickrema (2010:115) advocate the value of a national understanding of teaching excellence which enables improved management and rewards for the quality thereof (§5.4.2). They hold as example the national criteria for determining teaching quality as articulated in the Australian Learning and Teaching Council (ALTC) award system (Department of Education and Training, 2007). The ALTC (since replaced by the Office of Learning and Teaching) was established and funded by the Australian Government in 2004 with a view to engage, via collaboration, the entire Australian HE sector in the identification, support and reward for excellence and innovation in teaching practice (Department of Education and Training, 2007; McDonald, 2014:10). The ALTC identified the following national criteria for the identification of teaching excellence:

- *approaches to teaching that influence, motivate and inspire students to learn;*
- *development of curricula and resources that reflect a command of the field;*
- *approaches to assessment and feedback that foster independent learning;*
- *respect and support for the development of students as individuals; and*
- *scholarly activities that have influenced and enhanced learning and teaching.*

Each criterion is further qualified by teaching quality indicators. The measure of adherence to the quality indicators thus provides proof of the quality of a lecturer’s teaching practice during peer review, resulting in corresponding recognition and rewards. The ALTC principles

and criteria (Table 6.1) have had significant impact on the improvement of teaching and learning across Australian HE (Department of Education and Training, 2007; Devlin & Samarawickrema, 2010:120).

**Table 6.1: ALTC national criteria and quality indicators for teaching excellence**

Criterion	Teaching quality indicators
<b>Approaches to teaching that influence, motivate and inspire students to learn</b>	<ul style="list-style-type: none"> <li>• Fostering student development by stimulating curiosity and independence in learning;</li> <li>• Contributing to students' critical thinking skills, analytical skills and scholarly values;</li> <li>• Encouraging student engagement through enthusiasm shown for learning and teaching;</li> <li>• Inspiring and motivating students through high-level communication, presentation and interpersonal skills.</li> </ul>
<b>Development of curricula and resources that reflect a command of the field</b>	<ul style="list-style-type: none"> <li>• Developing and presenting coherent and imaginative resources for student learning;</li> <li>• Implementing research-led approaches to learning and teaching;</li> <li>• Demonstrating up-to-date knowledge of the field of study in the design of the curriculum and the creation of resources for learning;</li> <li>• Communicating clear objectives and expectations for student learning.</li> </ul>
<b>Approaches to assessment and feedback that foster independent learning</b>	<ul style="list-style-type: none"> <li>• Integrating assessment strategies with the specific aims and objectives for student learning;</li> <li>• Providing timely, worthwhile feedback to students on their learning;</li> <li>• Using a variety of assessment and feedback strategies;</li> <li>• Implementing both formative and summative assessment;</li> <li>• Adapting assessment methods to different contexts and diverse student needs.</li> </ul>
<b>Respect and support for the development of students as individuals.</b>	<ul style="list-style-type: none"> <li>• Participating in the effective and empathetic guidance and advising of students;</li> <li>• Assisting students from equity and other demographic subgroups to participate and achieve success in their courses;</li> <li>• Influencing the overall academic, social and cultural experience of Higher Education.</li> </ul>
<b>Scholarly activities that have influenced and enhanced learning and teaching.</b>	<ul style="list-style-type: none"> <li>• Showing advanced skills in evaluation and reflective practice;</li> <li>• Participating in and contributing to professional activities related to learning and teaching;</li> <li>• Coordination, management and leadership of courses and student learning;</li> <li>• Conducting and publishing research related to teaching;</li> <li>• Demonstrating leadership through activities that have broad influence on the profession.</li> </ul>

The above criteria and quality indicators clearly stipulate the requirements of quality teaching with a view to enhance student learning and are exceedingly valuable to the purpose of this study in that they provide a clear foundation for a quality benchmark for lecturer teaching-related accountability. The diverse roles and responsibilities of the lecturer in the HE

teaching environment are subsequently outlined. Since true accountability calls for answerability for clear task requirements (§5.2), which are absent in SA national and institutional legal policies (Chapter 3), it was deemed necessary to find appropriate literature that would provide a guideline as to what such responsibilities entail in the lecturer's teaching-related work. It is posited that if the teaching-related responsibilities of lecturers are clearly delineated in either national or institutional legal documents (e.g. employment contracts), lecturers can be held accountable for such responsibilities by their concerned stakeholders.

## **6.3 THE TEACHING RESPONSIBILITIES AND CORRESPONDING ROLES OF THE LECTURER**

### **6.3.1 The twelve-roles model**

Criteria for effective teaching comprise specific skills, practices and corresponding responsibilities that have to be applied within particular contexts (Devlin & Samarawickrema, 2010:111; Fitzmaurice, 2010:47). Should a lecturer wish to enter into HE teaching practice, he or she will have to accept certain teaching roles and responsibilities, which will have to be performed according to clear quality standards. The employer has the responsibility of specifying such responsibilities and holding lecturers to account for adherence to certain known standards. Yet the analysis of institutional legal determinants for lecturer accountability, amongst others the content of the employment contract (§3.4.3), indicated that clear task requirements and responsibilities for teaching-related work are vague, contributing to lecturer work overload and insecurity.

According to the University of Gloucestershire in the UK (2011:2), a clear exposition of the roles and responsibilities of lecturers will achieve the following objectives:

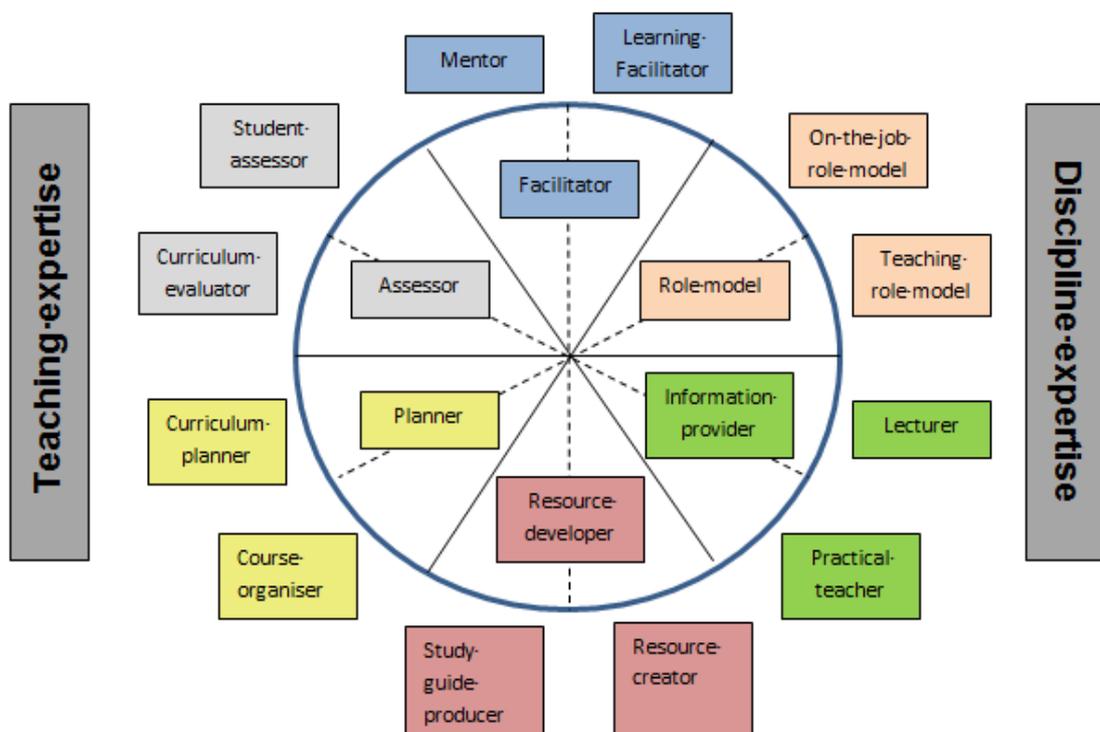
- a) educational provision of a high standard;*
- b) recognition of the professional contribution that academics make to the HE sector;*
- c) avoiding academic staff undertaking unreasonable workloads;*
- d) enabling the fair distribution of work within the University taking into account the local circumstances.*

Within the context of the discussion on lecturer workload in section 6.2.2, the above objectives are sufficient motivation for a clear delineation of the expected teaching-related responsibilities of lecturers to define their accountability and security in the workplace. The ensuing discussion lays no claim to being comprehensive on all current research into the teaching-related work of the lecturer, but merely strives to indicate that it is possible, and indeed preferable, to organise the different roles of the lecturer into a coherent model, an

example of which is subsequently offered, with a view to assist HE stakeholders and lecturers themselves in their estimation of the nature of teaching-related functions.

In a study conducted by Harden and Crosby (2000:336) regarding the responsibilities of a lecturer in medical education in the UK, a model was constructed wherein they identified six main areas of lecturer responsibility divided into twelve different teaching-related roles. This model, which I slightly adapted to encompass lecturers in general and not specific to medical education, is illustrated in Figure 6.1. They emphasise that the model is not to be used as a guideline for teaching methods, but rather as representative of the main functions related to teaching in the HE environment (Harden & Crosby, 2000:342).

In the reading of the said study, the value of this “*twelve-roles model*” as foundation to determine the teaching-related responsibilities of a HE lecturer in global context, became evident. The six areas of responsibility identified are the lecturer as information provider, role model, facilitator, assessor, planner and resource developer. Each of the six areas of responsibility of the lecturer is subdivided into two roles as illustrated in Figure 6.1. It is important to note that the roles depicted on the right hand side of the figure require more content or discipline expertise of the lecturer, while the roles depicted to the left of the figure require that lecturers possess and demonstrate more teaching (pedagogical) expertise (Harden & Crosby, 2000:336).



**Figure 6.1: The twelve-roles model of the lecturer**

Although each of the twelve roles is forthwith discussed separately, they are closely related and interconnected and the lecturer often takes on several of the roles simultaneously (Harden & Crosby, 2000:342). The following discussion demonstrates the unique nature but also the diverse demands of the lecturer's teaching-related work, and underscores the necessity of lecturer-specific labour conditions to ensure the regulation of workload and subsequent security.

### **6.3.2 The information provider**

As illustrated in Figure 6.1, Harden and Crosby (2000:337) identify two roles for the lecturer as information provider, namely the classroom teacher and the practical teacher. As classroom teacher the lecturer is viewed as the subject expert with the responsibility to teach relevant knowledge and stimulate understanding by using appropriate teaching strategies, media and technology. Since students can nowadays retrieve information from relevant web search engines at any time from any location (Marques, 2012:35), the lecturer's role is situated on leading students to an understanding of fundamental concepts through relation of theory to practice rather than to cover as much content as possible (Kember & McNaught, 2007:viii). Whatever is taught in the university classroom has to enable students to think critically and to connect classroom theory to their own benefit and that of the employers in the world of work (Kember & McNaught, 2007:56; Marques, 2012:35).

Effective HE teachers are characterised by approachability, up-to-date discipline knowledge, a sensitivity to student needs, enthusiasm for what is being taught, an ability to communicate in a clear and coherent manner, the ability to generate and sustain student interest in the subject under discussion, and a focus on developing a repertoire of teaching methods to employ in different contexts and for different student profiles (Akerlind, 2007:29; McMillan, 2007:212; Zepke & Leach, 2010:170). Prevalent HE teaching practices worldwide expect of lecturers to follow student-centred teaching approaches that focus on student learning and development of critical understanding to enhance the quality of student learning (Akerlind, 2007:22, 28; McMillan, 2007:213).

As practical teacher, Harden and Crosby (2000:338) maintain that the lecturer must function as skills developer in the practice setting of the discipline being taught. The lecturer has the responsibility to create challenging and appropriate work-integrated learning opportunities for students to learn how to apply theory in order to solve problems related to real life practice of their discipline in preparation of future employment (Fitzmaurice, 2010:51; Zepke & Leach, 2010:171). The lecturer's collaboration with industry and business, as HE stakeholders and future graduate employers, is the essence of ensuring that practical issues addressed and skills developed are current and relevant to practice (Chan, Chan & Liu, 2012:1039).

### 6.3.3 The role model

As a role model Harden and Crosby (2000:338-339) distinguish between an *on-the-job* role model with the responsibility of demonstrating to students those standards of conduct and professional behaviour required by the profession for which they are being trained. The second part of being a role model is that of professional classroom teacher, exhibiting enthusiasm, positive attitude and ethical conduct, and expert knowledge of the discipline and its practice in order to stimulate curiosity and an eagerness to learn in their students. “*Role models inspire and teach by example*” and learning occurs through a blend of conscious and unconscious observation and reflection activities (Cruess, Cruess & Steinert, 2008:718-719; Kember & McNaught, 2007:ix).

Trigwell (2001:69) adds the importance of displaying subject expertise as well as “*general pedagogical principles needed to transform the concepts of the discipline into terms that are understandable to their students.*” Lecturers, who are willing to participate in professional development opportunities to improve their teaching practices and ultimately their students’ opportunities to learn, exemplify the type of professional, self-reflective behaviours that lecturers want to stimulate in their students. Lecturers who set demanding but reasonable learning targets for their students motivate them to expect greater achievements for themselves. Moreover, positive feedback on student achievements will develop feelings of satisfaction in their learning achievement, thereby ensuring further motivation to work harder and achieve more (Kember & McNaught, 2007:54). McGettrick (2005:5) provides a fitting quote to underscore this notion: “*great teaching does not come from the application of prescriptive outcomes, but from the inspiration that characterises relationships and motivation for learning in the service of thought.*”

### 6.3.4 The facilitator

As indicated in Figure 6.1, as facilitator the lecturer fulfils the roles of learning facilitator and mentor (Harden & Crosby, 2000:339). As mentor the lecturer has the responsibility to build a relationship of trust with students while encouraging, supporting and guiding them to gradually accept responsibility for their own learning progress and to use their prior knowledge to continuously construct new meaning and develop contextual understanding with a view to prepare them for the workplace (Cruess *et al.*, 2008:718; Houston, 2008:71; Starr-Glass, 2011:1; Trigwell & Shale, 2004:534). Good teaching practice requires implementation of effective interactive facilitation approaches to stimulate active student engagement for meaningful learning, necessitating the development of students’ cognitive competences and practical skill rather than theoretical knowledge and understanding (Kember & McNaught, 2007:56; Morley, 2003:143; Postareff *et al.*, 2007:558-559). Kember

and McNaught (2007:56) emphasise that theory and practice can only be integrated if the facilitator has the ability to initiate and guide discussions to make what is taught relevant through real-life examples, local materials or current affairs.

In the role of mentor the lecturer is required to act as a guide, a coach and a trusted counsellor to students, with collaboration at the heart of the lecturer-student relationship (Harden & Crosby, 2000:339-340; Ilevbare, 2011:197). The role of mentor is closely associated with being a critical friend, a supporter and a motivator, and with the building of genuine empathetic relationships with students to enhance valuable in-class collaboration (Kahn & Walsh, 2006:100; Kember & McNaught, 2007:ix; Tillema & Van der Westhuizen, 2013:1318). Fitzmaurice (2010:52) notes that in the building of caring relationships with students, lecturers have to design learning environments wherein different personalities will be willing and able to engage in opportunities for academic and personal growth. A successful mentor must be sensitive to students' needs and development, will demonstrate a willingness to assist students through difficult situations, will maintain confidentiality at all times and will work diligently to develop students' self-confidence (Ilevbare, 2011:202; Meyers, 2009:206).

### **6.3.5 The assessor**

The fourth area of responsibility of the lecturer centres around assessment which is seen as an integral yet specialised part of the teaching-related work of the lecturer. According to Harden and Crosby (2000:340), the lecturer must act as both student assessor and curriculum assessor. As student assessor, Harden and Crosby (2000:340) maintain that formative student assessment must include a teaching and development factor. This approach is also advocated by Fitzmaurice (2010:53), who places emphasis on an assessment approach that demonstrates lecturers' commitment to invest time and effort in appropriate formative feedback on continuous assessments that will facilitate improvement in student learning. The role of the lecturer in summative assessment is viewed as that of a judge, determining whether the level of competence of students is such that they can pass a subject and ultimately graduate. In their role as student assessors, lecturers therefore have to use a wide range of appropriate instruments to ensure valid, reliable, open and fair assessment of outcomes mastery of a diverse student population (Harden & Crosby, 2000:340; Fry, Ketteridge & Marshall, 2003:59). This view is supported by Srinivas and Adkoli (2009:7) who emphasise that student assessment in HE has shifted to the implementation of "*multiple-methods for testing a wide gamut of learning outcomes, such as higher cognitive abilities, communication skills, IT skills and professionalism including ethical behaviour.*"

Kember and McNaught (2007:ix) emphasise that assessment tasks must always be aligned to desired learning outcomes and should therefore be authentic for the discipline or profession. Teaching and learning activities, as well as assessment methods and tasks, should therefore be selected and implemented with a view to realise specific learning outcomes. Harden and Crosby (2000:340) indicate that “*curriculum and teacher evaluation is a form of accountability which emphasises the obligation of those employed in the education system to be answerable to the public, to the profession, to those who fund the education and to the students themselves.*” This quotation links to both the internal and external accountability of the lecturer in teaching-related work (§5.3 & §5.4).

As curriculum assessors, lecturers have to assess the quality of the curriculum and the quality of their own teaching (Healey, 2000:172). Curriculum quality and the quality of own teaching practices are determined through graduate employer feedback, external evaluations by relevant professional bodies, internal institutional evaluations such as student and peer assessments of teaching, and government audits (Harden & Crosby, 2000:340). These mechanisms provide valuable feedback on the standard of the teaching and learning design and aspects that need to be addressed in order to enhance curriculum and teaching quality.

Much has been written on the assessment of lecturer teaching practices in the HE environment and many researchers conclude that the quality or effectiveness of teaching practices of lecturers is mainly determined through student evaluations (Akerlind, 2007:30; Barrie *et al.*, 2005:645; Berk, 2005:51; Horspool & Lange, 2011:74; Weinberg, Hashimoto & Fleisher, 2009:227). In the UK, USA and Australia academics view student evaluations of teaching as a quality assurance mechanism indicative of student satisfaction with the quality of teaching practices and programme quality (Barrie *et al.*, 2005:641; Cheng, 2010:262; Poskanzer, 2002:71). HE lecturers thus attach more value to internal accountability mechanisms that are closely related to their day-to-day work than external mechanisms such as institutional audits.

Yet, with regards to the credibility of student evaluations of teaching, Weinberg *et al.* (2009:254) and Morley (2003:138) warn that students may sometimes reward lecturers for grading leniency and in-class entertainment value instead of providing honest feedback on teaching practices and the value of the learning experience. Student evaluation instruments should therefore be carefully constructed to provide a credible assessment of lecturer teaching practices, and should co-incide with collegial accountability mechanisms such as peer review and lecturer self-evaluations (Akerlind, 2007:30; Barrie *et al.*, 2005:645; Berk, 2005:51; Horspool & Lange, 2011:74; Shao, Anderson & Newsome, 2007:355), and teaching awards (Shao *et al.*, 2007:355) (§5.4.3).

Berk (2005:50) is one of the advocates of rigorous peer review of teaching according to the same high standards applied to any other form of scholarship, if teaching is to be rewarded in the same manner as research. Berk (2005:48) emphasises that before teaching quality can be determined, there is a need for a clear indication of the purpose for such assessment. He distinguishes between measurement for formative purposes, where the results are used for professional development to improve the quality of teaching; and measurement for summative purposes, where the results are used as evidence to determine the status of a lecturer's teaching to inform decisions on annual merit pay, teaching awards or promotion. Peer review for both purposes will contribute to the enhancement of the work conditions of lecturers in that professional development and recognition for teaching excellence are requirements for enhanced lecturer security (§6.2.2 & §6.2.3).

### **6.3.6 The planner**

According to Trigwell (2001:69,71) "*good teachers draw upon the literature of their discipline, their knowledge of student learning and student-focused conception to design a learning experience for students that is aligned with their learning objectives and assessment.*" This quotation highlights the importance of careful planning of the teaching and learning design of a curriculum with a view to ensure the realisation of learning outcomes.

The responsibility of planning, as indicated in Figure 6.1, requires of the lecturer to act as both curriculum and individual course planner (Harden & Crosby, 2000:341). Whether planning the curriculum of a qualification or the courses or modules comprising the total curriculum, the lecturer has an important role to play in ensuring that the different components are constructively aligned to ensure an optimal learning experience for the student (Biggs, 2003a:140). Kember and McNaught (2007:63, 71) maintain that effective curriculum planning requires the design of learning activities consistent with the intended learning outcomes, and that planning of every learning opportunity needs to be flexible to allow for different student reactions and the monitoring of student learning.

According to Biggs (2003a:140), constructive alignment requires the formulation of learning outcomes as a first step in the process of curriculum or course design, where after assessment criteria can be developed to indicate what students will have to demonstrate in order to realise the set outcomes. Teaching and learning activities can then be planned and scaffolded to ensure that students are guided to meet the assessment criteria actively, thereby mastering the learning outcomes and developing significant employment skills and generic attributes such as critical thinking skills, effective communication skills and the ability to work effectively as part of a team (Kember & McNaught, 2007:ix, 61; Meyers & Nulty, 2009:565). Biggs (2003b:1) explains that *constructive* in this context means that "*students*

*construct meaning through relevant learning activities [while] teaching is simply a catalyst for learning*". *Alignment* indicates how the lecturer plans the teaching environment to support student activities that are appropriate to achieving the desired outcomes. This indicates the importance of the planning function of the lecturer, not only in classroom teaching, but also in the decisions with regards to curriculum design, a function that significantly contributes to lecturer teaching-related workload. In the SA context, the design and development of the curricula of qualifications and programmes are regulated via the provisions of the national HE Qualifications Sub-Framework and the level descriptors of the South African Qualifications Authority (§3.2.5).

### **6.3.7 The resource developer**

The sixth area of lecturer responsibility is divided into the roles of resource creator and study guide producer (Harden & Crosby, 2000:341-342). Student-centred teaching approaches require of lecturers to develop appropriate resources to ensure active participation of individuals or groups inside and outside of the university classroom. Resource materials have to be fit for purpose and have to stimulate the attainment of learning outcomes. Lecturers therefore have to keep abreast of educational technology and multi-media developments in order to be able to select correctly, contextualise and implement these effectively to provide appropriate and accessible formats of learning materials to enhance independent student learning.

The development of a growing number of digital technologies provides lecturers with new possibilities to enrich contact and distance teaching with a variety of resource materials, while the planning and implementation thereof significantly adds to lecturer workload. For example, McGarr (2009:310) points out the benefits of podcasting (course materials in video and audio formats) to enhance learning flexibility and accessibility, while the design of learning objects, "*small instructional components that can be re-used a number of times in different learning contexts*" is beneficial to students in that the use thereof presents opportunities for exploration and problem-solving either in a collaborative environment or for individualised learning (De Salas & Ellis, 2006:4). Since lecturers must be creative in the preparation and presentation of resources and course materials to pique students' interest and focus their learning, lecturers often need professional training for the role of resource developer to ensure appropriate implementation within an increasingly technology-supported HE environment (Harden & Crosby, 2000:341; Marques, 2012:35).

In the role of study guide producer, Harden and Crosby (2000:341) explain that the reduction of face-to-face contact time between lecturers and students worldwide has made a carefully planned interactive study guide an effective substitute for lecturer presence to focus student

attention on learning activities to master set learning outcomes. Al-Hazimi (2012:6) refers to a study guide as a *24/7 tutor* available to advise students with regards to the *what and how* of their studies. The planning and development of study guides, though time consuming and often complicated, are part of the lecturer's responsibilities for which he or she seldom gets any kind of recognition.

### **6.3.8 Concluding remarks**

In conclusion Harden and Crosby (2000:343) emphasise that not all lecturers are skilled at fulfilling all of the twelve indicated roles, emphasising the importance of staff development programmes to equip lecturers with the necessary competences where they are lacking in skill. In addition and of significance to this study, they advocate that a roles profile should be included in the employment contracts of academic staff, and recognition for teaching efforts to attain excellence in the different roles need to be addressed (Harden & Crosby, 2000:345). They summarise the value of implementing the twelve-roles model as follows:

- 1) to make explicit an institution's commitment to teaching and to the different roles expected of a teacher;*
- 2) to assist with identification of the teaching skills required within an institution.*
- 3) to identify staff recruitment needs and to contribute to the job specifications and contracts with staff;*
- 4) to identify the needs for staff development programmes and to relate these to the requirements of individual teachers;*
- 5) to evaluate staff: recognition of the different roles is important with regard to teacher evaluation;*
- 6) to inform an analysis of teaching activities with a view to allocate resources within the institution or for other purposes such as workload determination;*
- 7) to facilitate change: less resistance from teachers to change may be experienced if the roles of the teacher are made more explicit and it is recognised that traditional teachers' roles continue to have an important part to play in addition to new roles.*

The above summary is deemed to be sufficient to motivate the importance of a clear delineation of the lecturer's accountability in teaching-related work and the recognition of the diversity of a lecturer's roles and responsibilities with the resulting workload.

## **6.4 SUMMARY OF CHAPTER**

The initial sections of this chapter focused on global changes and reforms in the HE environment over the past twenty odd years, e.g. demands for increased student access to higher learning, increased lecturer workload and corresponding decrease in working

conditions, and demands on lecturer accountability in the teaching environment. Evident from the discussion was that the teaching-related responsibilities of the lecturer have become exceedingly diverse while professional recognition and academic standing are still dependent on research outputs. It became evident that the existence of a professional code of conduct and formalised professional pedagogical development of lecturers will be of value to regulate the expected behavioural standards and subsequent standing of lecturers that will positively contribute to lecturer accountability and security. It was concluded that the improved juridical foundation for the accountability of the lecturer should include lecturer-specific conditions of work that will have a positive impact on determining fair teaching-related workload and subsequent rewards and recognition, thereby enhancing lecturer security.

Thereafter the focus shifted to an exposition of the complex nature of teaching quality in the HE environment. It was found that, irrespective of culture or country, institutional mission or external stakeholder demands, the unmistakable link between the quality of teaching and the quality of the student learning experience overshadowed the search for a definition of teaching quality. The importance of an institutional focus on the scholarship of teaching, recognition for scholarly outputs and teaching excellence, and the relevance of peer review and subsequent improvement of teaching practices to enhance the status of teaching, were particularised. In conclusion it was advocated that there should exist a national understanding of what teaching quality entails while the value of minimum standards for quality teaching in the HE environment must include clear standards that have to be contextualised for implementation at institutional level. The ALTC national teaching criteria for the award of quality teaching in Australian HE were proposed as an effective foundation for the development of such standards in the SA context.

This led into a discussion on the teaching-related responsibilities and roles of the HE lecturer with a view to achieve quality provisioning. In this regard the twelve-roles model of Harden and Crosby (2000) was slightly adapted to illustrate the six areas of responsibility of the HE lecturer, namely the lecturer as information provider, role model, facilitator, assessor, planner and resource developer. The nature of each of these areas of responsibility and the ensuing roles that the lecturer fulfils were explained and supported by the views of various researchers. In Harden and Crosby's conclusive remarks on the implementation of the twelve-roles model in the teaching environment of the lecturer, they provide seven explicit benefits, inclusive of the fact that the implementation of such a model will be hugely beneficial to articulate job specifications to be included in the employment contracts of academic staff. The value of this model for purposes of this study is significant to inform the

juridical foundation for lecturer teaching-related accountability and the regulation of lecturer workload and recognition for teaching excellence.

This brings to a close the analysis and reporting of relevant literature on the teaching-related work of the HE lecturer in global context. The results of this analysis, together with the results of the literature overview on accountability addressed in Chapter 5, are significant for purposes of answering research sub-question 3: What is the nature of accountability in general, and in particular of the teaching-related accountability of HE lecturers. The conclusions are offered in Chapter 9.

Kinman *et al.* (2006:26) offer a final significant quote that underscores the value that a clear delineation of lecturer accountability at national legislative level can add to lecturer security:

*Higher education is a labour-intensive industry that relies heavily upon the capabilities and goodwill of its employees to provide educational quality. In circumstances where institutions are finding it increasingly difficult to recruit, retain and nurture suitably qualified academic staff that reputation could be at risk. Whilst some of the reported problems faced by academic staff may be solved at the individual or organisational levels, national initiatives are probably necessary if the underlying malaise is to be addressed.*

Chapter 7 focuses on an exposition of the research design for the empirical study.

## **CHAPTER 7:**

### **THE RESEARCH DESIGN**

Whereas a brief overview of the research design was presented in Chapter 1, this chapter offers a comprehensive discussion of the following elements of the empirical study:

- the nature of and rationale for the employment of the qualitative methodology and interpretive research paradigm, more specifically from an interpretive-phenomenological perspective;
- ethical considerations pertaining to the empirical study;
- the selection and characteristics of the research sites;
- the selection and characteristics of participants in the empirical study;
- methods of data generation; and
- methods and procedures of data analysis.

Regarding the exposition of the research design, it should be noted that the provisions for trustworthiness (§1.6.7), the role of the researcher (§1.6.6), the delimitations and limitations (§1.6.8), and relevance of the study (§1.7) have been discussed in detail in Chapter 1 and are thus not repeated here.

#### **7.1 THE RESEARCH METHODOLOGY**

Henning *et al.* (2004:36) distinguishes methodology from methods by explaining that a method refers to a particular way of doing one thing, while the methodology denotes an articulate and appropriately selected group of complementary methods that are suitable “*to deliver data and findings that will reflect the research question and suit the research purpose*”. The methodology clarifies the limitations, presuppositions and consequences of the selected research methods, thereby becoming the functional plan to link the research questions with the research methods in order to generate data that can be analysed to answer those questions (Cohen, Manion & Morrison, 2005:44).

For purposes of this empirical study and for the answering of its particular research questions, a qualitative methodology has been followed. Bogdan and Biklen (2007:5) maintain that a qualitative methodology “*demands that the world be examined with the assumption that nothing is trivial, that everything has the potential of being a clue that might unlock a more comprehensive understanding of what is being studied.*” A qualitative researcher is concerned with context, and therefore physically enters a specific chosen setting from the premise that meaning is constructed by individuals when they interact with others within that particular setting or context (Merriam, 2002:3-4; Bogdan & Biklen, 2007:4).

Merriam (2002:4) asserts that the aim of qualitative inquiry is not to measure a fixed construct, but rather to develop depth of understanding of a phenomenon via the perspectives and interpretations that individuals ascribe to it, in this case, the perspectives and opinions of HE lecturers on two related phenomena, namely lecturer accountability and lecturer security. Moreover, as noted by Babbie and Mouton (2006:53), the purpose of qualitative research is to explore and understand human behaviour rather than to predict or justify it, still in keeping with the aims of this empirical study (Table 7.1). Henning *et al.* (2004:5) agree when they define qualitative research as a type of inquiry wherein “*the qualities, the characteristics or the properties of a phenomenon are examined for better understanding and explanation.*” Qualitative research is thus descriptive in nature and, unlike quantitative research where the data take on the form of numbers, words and pictures depict the data used by the qualitative researcher (Bogdan & Biklen, 2007:5).

McMillan and Schumacher (2001:395) add another dimension to the aim of qualitative research when they state that it not only aims at analysis and rich descriptions of the individual experiences of a phenomenon, but also at collective beliefs, opinions, thoughts and perceptions of groups of people who share a particular context, and as such can make valuable contributions towards, for example, the generation of theory, the development of frameworks or policy, and the improvement of practice. This aim is particularly relevant to this study where the shared context is the HE employment environment of lecturers, and the main purpose was to generate guidelines that will improve the existing juridical foundation for lecturer accountability to enhance security through the understanding of what accountability and security entails from the perspectives of the lecturers themselves.

From the above explanations it is obvious why a qualitative methodology was chosen as the best fit for answering the research sub-questions pertaining to the empirical study, as summarised in Table 7.1.

**Table 7.1: Data generation methods and concerned empirical research sub-questions**

Research sub-question	Research method
2. How can a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct, and rights of the lecturer inform the guidelines for an improved juridical foundation for accountability to enhance the security of the SA lecturer?	The comparative component of the semi-structured interviews
4. How do lecturers perceive their accountability in teaching-related work, and what are their opinions and perspectives on the nature of their security in light of their perceived accountability?	Semi-structured individual and focus group interviews

The qualitative researcher is the primary instrument for both data generation and analysis (Merriam, 2002:5) and since the nature of qualitative inquiry is always context sensitive, the data and findings are not generalisable to other contexts (Best & Kahn, 2003:243). Moreover, the products of qualitative research are *“richly descriptive”* and *“data in the form of quotes from documents... and participant interviews... are always included in support of the findings of the study”* (Merriam, 2002:5). When a researcher endeavours to learn how different individuals view and understand a particular reality or phenomenon, the qualitative methodology is informed by an interpretive paradigm, as was the case in this empirical study. The interpretive paradigm is further discussed in section 7.2.

Since the qualitative researcher generates and analyses data with a view to build an understanding of certain concepts or phenomena, qualitative research is viewed as inductive in nature (Best & Kahn, 2003:243; Merriam, 2002:5). Throughout the research process the researcher is thus open to *“find whatever there is to find”*, and reality can be discovered without having to test or refute hypotheses as is the norm with quantitative research (Best & Kahn, 2003:242; Bogdan & Biklen, 2007:6). Bogdan and Biklen (2007:6) explain that *“theory developed this way emerges from the bottom up, from many disparate pieces of collected evidence that are interconnected”*, ensuring that the theory is thus actually grounded in the data.

During the development of the conceptual framework and the comprehensive literature study of this research, it became obvious that, although accountability as phenomenon has been widely researched in different contexts, there is a lack of theory for a clear delineation and understanding of the teaching-related accountability and resultant security of the SA HE lecturer. Therefore, relevant data were generated via face-to-face semi-structured individual and focus group interviews with lecturers in an effort to discover the essential characteristics and facilitate understanding of these phenomena while contributing to the building of new theory in the field of HE.

## **7.2 PARADIGM FOR THE EMPIRICAL STUDY**

Any type of research is informed by a philosophical or theoretical stance – a paradigm that informs and shapes the assumptions, rules, values and practices fundamental to the research purpose, motivation, design and expectations (Mackenzie & Knipe, 2006:195; McGregor & Murnane, 2010:419; Merriam, 2002:4; Newby, 2010:44). As indicated in section 1.6.1, this qualitative study is grounded in the interpretive paradigm, more specifically from an interpretive-phenomenological perspective.

Interpretive-phenomenological researchers aim to understand a phenomenon from the perspective of the participants in a study (Lopez & Willis, 2004:729). Therefore they examine in detail the narrative accounts of the context-specific personal life experiences of the participants with a view to find obvious or hidden meanings regarding the phenomenon under investigation (Smit, 2010:35; Lopez & Willis, 2004:728). The interpretivist thus adopts an epistemology whereby knowledge and understanding are developed through in-depth analysis and interpretation while advocating the ontological belief that there are multiple realities that are socially constructed, context-specific and in essence never static (Bogdan & Biklen, 2007:26; Henning, 2004:36). In short, understanding of a phenomenon is thus developed when the researcher interprets the personal viewpoints and opinions of the research participants with a view to construct new knowledge of the phenomenon (Bogdan & Biklen, 2007:25).

Interpretive researchers emphasise the belief that there is value in the subjective human experience or consciousness, in peoples' ability to create what is meaningful (Smit, 2010:35; Newby, 2010:35; Cohen, Manion & Morrison, 2005:23). Aptly, Conroy (2003:5) refers to the contributions of participants to such a study as their "*footprints on the world and in the world*". In this metaphor she acknowledges that each participant's footprint is unique and valuable and that the usefulness thereof for the study is dependent on the context, but also on the nature of the researcher's interpretation. As such the researcher's presuppositions and personal conceptions are also relevant to the outcome of the inquiry (Lopez & Willis, 2004:729). As researcher in this study, my context and possible biases have already been explained in section 1.6.6.

In view of the above, this qualitative empirical study was conducted via an interpretive-phenomenological approach in an effort to ensure that the meanings attributed to the accountability and the security of the HE lecturer reflect what the participants considered to be reality within their shared context, namely the HE employment environment (McMillan & Schumacher, 2001:396). More specifically, the participants' personal perceptions, opinions and experiences of the following were investigated to develop deeper understanding thereof:

- the origin and nature of the teaching-related responsibilities of the lecturer;
- the adequacy of the existing legislative framework relevant to the HE context to protect the rights and delimit the responsibilities of the lecturer;
- the nature of the professional status of HE lecturers and its influence on their security;
- the expected ethical and professional conduct of HE lecturers; and
- in light of the afore-mentioned, the nature of the security experienced by lecturers in their employment environment.

Questions pertaining to the above foci had thus been included in the interview schedule.

### **7.3 ETHICAL ASPECTS RELEVANT TO THE EMPIRICAL STUDY**

As noted in section 1.6.9, the empirical study was carried out with the highest regard for ethical concerns and the necessary ethical clearance had first been obtained from the Faculty of Education Sciences and Institutional Ethics Committee of the North-West University. After the four research sites had been identified (§7.4), a letter was sent via email to each of the four Institutional Registrars concerned, requesting permission to conduct the research at their respective Institutions (example in Addendum 7.1). Thereafter permission was procured from each of the concerned faculty deans of the respective institutions (example in Addendum 7.2), and they were requested to provide assistance with the identification of possible participants in the empirical study. All letters to request permission and consent to undertake the research were accompanied by the interview schedule (Addendum 7.4) to ensure that all concerned parties were aware of the nature of the interview questions.

Creswell (2003:63) notes that a chosen research problem should aim to be beneficial to the research participants and must be unambiguous and honest in purpose. Prior to conducting the interviews for this empirical study, the purpose and aims (§1.5) of the research had therefore been clearly explained to the selected participants, first in writing and sent via email together with their personal consent requests (example in Addendum 7.3), and then again verbally before each interview. Thereby an effort was made to ensure that each participant understood the nature and purpose of the research and could utilise the opportunity to withdraw if he or she surmised that his or her participation could have any negative impact on his or her work life or emotional well-being. An effort was also made to protect the participants from possible risk by adhering to the guidelines provided by Bogdan and Biklen (2007:48-50), Creswell (2003:64-67), Newby (2010:357-358) and Rapley (2007:29-31), as summarised in Table 7.2. The categorisation of ethical issues during the different stages of the research process as proposed by Creswell, was used for this summary.

**Table 7.2: Ethical guidelines for the research**

Ethical guidelines in data generation	Ethical guidelines in data analysis and interpretation	Ethical guidelines in writing and disseminating the research
<p>The necessary permission to conduct research at the selected research sites was procured from the concerned institutional registrars and the concerned faculty deans.</p>	<p>The researcher transcribed the audio-recorded interviews, analysed and interpreted the data herself.</p>	<p>The researcher was continuously careful to use language that is unbiased in terms of gender, race, age etc., and sensitive to labels and stereotypical groupings.</p>
<p>Participants gave informed consent to take part in the research while being assured that personal risk for participating was minimal.</p>	<p>During interview transcriptions, data analysis, coding and interpretation of results, the researcher continued to ensure that the anonymity of Institutions and individuals was protected.</p>	<p>The researcher did not suppress, falsify or invent findings to manipulate the outcomes of the empirical study or to meet the researcher's expectations.</p>
<p>Participation was voluntary and the participants were aware of the obligations that their participation in the study involved, and that they could withdraw from the study at any given time.</p>	<p>Throughout the process of analysis and interpretation, the researcher strove for an accurate reflection of the participants' voices and perspectives. Strategies were employed to check for accuracy and to improve validity, e.g. employing different methods for data generation, member-checking and clarification of researcher biases (§1.6.7).</p>	<p>The lecturers who were interviewed were acknowledged as valuable by referring to them as "participants" and not as "subjects".</p>

<p>Procedures, time frames, research purpose and aims, and the interview topics and questions were carefully explained in writing and communicated to participants via email prior to the interviews to convey the expectations of the researcher.</p>	<p>It is the intention of the researcher to keep the analysed data for at least 5 years after the study has been completed. Thereafter all data will be effectively destroyed.</p>	<p>A detailed account of the complete research design is included in the thesis to enable readers of the study to determine its credibility for themselves.</p>
<p>Confidentiality of generated data and anonymity of participants and Institutions were guaranteed prior to participation. The researcher's commitment to respect the rights of participants to privacy, to ask questions at any time, and to have access to research results (disclosure), was confirmed before and after the interviews.</p>		
<p>The researcher made a commitment to minimise the disruption of and impact on the research site, for example on the normal activities of the participants. The researcher visited each site for one week during the academic year, determined by the institutional registrars and concerned faculty deans. The participants decided on the time schedules and location for interviews during the week of the site visit.</p>		

## 7.4 THE RESEARCH SITES

Currently there are twenty five public universities in South Africa, grouped into three institutional types (DHET, 2014:5):

- a) Traditional universities (13 universities) offering formative degrees, professional undergraduate degrees, Honours degrees, postgraduate diplomas, Master's and Doctoral degrees;
- b) Comprehensive universities (6 universities) "*established as result of mergers between traditional universities and former Technikons*", offering a combination of the above degrees and diplomas; and
- c) Universities of Technology (6 universities, formerly known as Technikons) offering mainly vocational or career-focused undergraduate diplomas, the Bachelor of Technology and a limited number of Master's and Doctoral qualifications.

The three SA universities that were selected as research sites were included in the study to represent each of the three institutional types, but as noted in section 1.6.3, not for the purpose of generalising subsequent research findings, but only to gather rich descriptive data from participants in the employ of institutions with dissimilar missions and ethos. In addition, the selection of the four research sites was guided by one other basic criterion, namely established relationships with colleagues at different institutions who could be approached for advice on obtaining permission from concerned management structures for doing the research, and for participant selection, especially at the Australian research site.

The selected SA universities and their distinguishing characteristics as reported for the 2012 academic year by the DHET (2014:6, 14, 17) are indicated in Table 7.3.

**Table 7.3: South African research sites and distinguishing characteristics**

Institution	Institutional type	University size (head count enrolments)	Number of permanent academic staff
<b>University A</b>	Traditional university	Large: more than 50 000 enrolments	More than 1200
<b>University B</b>	Comprehensive university	Medium: more than 30 000 but fewer than 50 000 enrolments	More than 1000 but fewer than 1200
<b>University C</b>	University of Technology	Small: enrolments below 20 000	Fewer than 300

A fourth research site for the study, with the distinctive purpose of providing an international comparative perspective of the research phenomena, is a notable research-driven Australian university (University D). University D has more than 20 000 but fewer than 25 000 students, thus a small university in SA terms, yet viewed as one of the larger academic employers in Australia. The reasons for selecting Australia for the comparative perspective were explained in section 1.6.3. The main reason for selecting University D as the particular site of research for this study was established relationships with Australian colleagues at this university. These colleagues were not selected as participants in the empirical study, but their assistance was invaluable with regards to travel and logistical arrangements, and the identification of structures and individuals that had to give permission for the research to be carried out.

## 7.5 PARTICIPANT SELECTION

As explained in section 1.6.4, the method of non-probabilistic, purposive sampling was employed to select the participants from the target population of HE lecturers. The target population of lecturers that participated in this study had the following characteristics in common:

- all were employed in permanent academic positions;
- all were in possession of at least a Master's degree; and
- all were actively involved in undergraduate teaching.

These characteristics were deemed non-negotiable to ensure that the participants were conversant regarding the accountability and security of the lecturer in teaching context, thus able to contribute meaningfully to the study.

Babbie and Mouton (2006:166) provide impetus for the employment of non-probabilistic, purposive sampling in a qualitative study for its assurance that the selected participants are knowledgeable regarding the phenomena to be investigated, improving the possibility that their contributions will add value and assist in the answering of the research questions. Henning *et al.* (2004:71) agree when they refer to this type of sampling as finding the “*people who fit the criteria of desirable participants*” that will become the “*spokespersons for the topic of inquiry.*” To ensure the appropriateness of the sample from the target population for this study, the assistance of the deans and academic advisors of the respective Faculties was therefore requested to identify lecturers with either knowledge of national legislative frameworks or a focus on and responsibility for quality teaching in undergraduate qualifications.

After an extensive in-depth study with the express purpose to determine at what point data saturation will be reached in an interpretive-phenomenological study, Guest, Bunce and Johnson (2006:78) found that six to twelve interviewees were an adequate non-probabilistic sample size. Data saturation refers to that point in the process of data generation or analysis where it becomes evident that the researcher has reached “*thematic exhaustion*”, thus when new interview data add little or no value to the established themes (Guest *et al.*, 2006:65), or codes as is explained in section 7.7. Leedy and Ormrod (2005:144), however, are of the opinion that a purposive sample to gather rich descriptive data in an interpretive-phenomenological study should be between five and twenty five participants.

In accordance with the above guidelines, interviews were conducted with nineteen individual participants, six employed by University A and six by University C; while the remaining seven individuals were employed by University D at the time of the research. It should be noted that an individual interview with one of the Australian participants from University D was cut short due to a personal emergency that occurred after the first 15 minutes of the interview that obliged the lecturer to attend to it without delay. It was nevertheless decided to use the data from the shortened interview since it was valuable to the study. In addition to the nineteen individual interviewees, one focus group interview was conducted with five participants employed by University B. Initially the number of participants for the focus group had been six, but one participant withdrew on the morning of the scheduled interview due to serious illness. Due to time constraints the option to invite another participant could not be exercised, thus the focus group eventually consisted of only five participants. The value of the focus group interview as method of data generation is clarified in section 7.6.2.3.

It is evident that non-probabilistic, purposive sampling in a qualitative study is employed to ensure richness of data from various participants, and not for purposes of statistical generalisability (Guest *et al.*, 2006:61), and thus appropriate for this particular empirical study where the aim was not to generalise the subsequent research findings, but rather to find rich data and develop deep understanding of the phenomena under investigation. The variation of participants selected for the empirical study is illustrated in Table 7.4. The participating lecturers were selected to represent maximum variation regarding originating faculties and disciplines while still ensuring that the logistics behind the organising of the interviews at the four different sites would be manageable. Further variations in terms of culture, gender, years’ of lecturing experience and appointment levels are reported in the combined participant profile as summarised in Table 8.1.

**Table 7.4: Variation of participant selection for interviews**

<i>University type</i>	<i>Faculty</i>	<i>Number of participants</i>	<i>Reason for selection</i>
<b>Traditional, University A</b>	Education	2	Basic knowledge of Education Law and education-related legislation, which might have an influence on how accountability and rights of educators are viewed
	Health	2	Knowledge of Professional Council regulations governing professional practice in respective fields, that might influence perceptions of the phenomena to be investigated
	Law	2	Knowledge of the SA Constitution, labour law and law of contract that might influence perceptions of the phenomena to be investigated
<b>Comprehensive, University B</b>	Education	1	Basic knowledge of Education Law and education-related legislation, which might have an influence on how accountability and rights of educators are viewed
	Health: Psychology	2	Knowledge of Professional Council regulations and personal insight and experience of the issue of security in the workplace
	Law	2	Knowledge of the SA Constitution, labour law and law of contracts that might influence perceptions of the phenomena to be investigated
<b>University of Technology, University C</b>	Health	2	Basic knowledge of the law and accountability as both relate to ethical conduct of health professionals
	Business Sciences	2	Basic knowledge of transparency, accountability and service delivery issues in public management
	Humanities: Education	2	Basic knowledge of Education Law and education-related legislation, which might have an influence on how accountability and rights of educators are viewed
<b>One of Australia's top research-led universities, University D</b>	Education	2	An international comparative perspective on the research phenomena based on similar reasons as described for the corresponding SA faculty and lecturer selection.
	Business	3	
	Law	2	
<b>Total number of universities</b>	<b>Total number of faculties</b>	<b>Total number of participants</b>	
<b>4</b>	<b>12</b>	<b>24</b>	

All the ethical guidelines pertaining to the selection of participants and data generation (Table 7.2) were considered and clearly communicated to every participant. Together with the necessary consent forms, every participant was requested to complete a concise personal background questionnaire (Addendum 7.5) to enable the researcher to compile a combined profile of the participant sample. The profile is illustrated by the information in Table 8.1.

## **7.6 METHODS OF DATA GENERATION FOR THE EMPIRICAL STUDY**

The provisions for trustworthiness of the empirical study were clarified in section 1.6.7. Amongst those were the clarification of possible researcher biases, assurance of the appropriateness of the sample for the intended research, selection of suitable methods of data generation and analysis, and member checking of data transcriptions to enhance the validity thereof. Henning *et al.* (2004:33) emphasise that the methods of data generation are dependent on their appropriateness for answering the concerned research questions. For this particular empirical study, different types of interviews were deemed appropriate methods to generate data to answer the concerned research questions as is forthwith explained.

### **7.6.1 Introduction**

The main aim of this empirical study was to answer research sub-question 4: How do lecturers perceive their accountability in their teaching-related work, and what are their opinions and perspectives on the nature of their security in light of their perceived accountability? For the answering of this research question, semi-structured individual and focus group interviews were identified as most appropriate data generation methods (§7.6.2).

Also of importance, and thus a secondary focus of the empirical study, was the answering of the second part of research sub-question 2: How can a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct, and rights of the lecturer inform the guidelines for an improved juridical foundation for accountability to enhance the security of the SA lecturer?

As explained in section 1.6.2.2, the first part of the above research question was addressed via a theoretical overview and a comparison of concerned legal sources pertinent to the Australian and South African HE and labour environments to mirror the regulation of lecturer accountability in South Africa against that of Australia. The aim was to determine whether significant elements of the Australian legal framework could inform the existing juridical foundation for accountability of SA lecturers with a view to enhance their security. The results of the comparison were discussed in Chapter 4.

Data for the answering of the second part of research sub-question 2, namely the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct, and rights of the lecturer to inform the guidelines for an improved juridical foundation for accountability to enhance the security of the SA lecturer, were generated via semi-structured individual interviews with Australian participants at University D. Australian participant perspectives were compared with those of SA lecturers during the analysis and interpretation of the data as reported in Chapter 8. The different types of semi-structured interviews employed in this study are discussed in the subsequent sections.

## 7.6.2 Semi-structured interviews

Best and Kahn (2003:256) characterise types of interviews along a continuum ranging from informal, unstructured conversational interviews to formal, highly structured interviews. In this study data was generated via semi-structured, semi-formal face-to-face personal interviews with six participants each from two of the SA research sites (total of twelve SA lecturers), and seven Australian participants from the Australian research site. This was followed by one focus group interview with five selected SA participants from the fourth site (Table 7.4).

As described by Best and Kahn (2003:256), a semi-structured interview schedule consists of standardised open-ended questions of which the wording and sequence, though pre-determined, provide the interviewer with the option to further examine interesting issues that arise during the answering of each question. Newby (2010:340) adds that the interviewer can clarify participants' understanding and ask follow-up questions if a viewpoint needs to be explored, thereby developing appreciation for participant concerns. According to Smith and Osborne (2008:58) the interview will thus "*be guided by the schedule rather than be dictated by it*" and often the interviewee may introduce issues the researcher has not previously thought of. Open-ended questions encourage lengthier discussions and "*provide greater depth of response*" because it allows the engagement of interviewer and interviewee in a more personal conversation (Best & Kahn, 2003:323). The strengths far outweigh the weaknesses of this type of interview (Table 7.5) as summarized by Best and Kahn (2003:256) and Newby (2010:342), and the semi-structured interview was thus chosen for its appropriateness in best serving the aims of this empirical study.

As indicated in section 1.6.7 where the provisions for trustworthiness of the empirical study were explained, all of the interviews were voice-recorded to assist with the accuracy of the eventual verbatim transcription thereof. All the interviews were conducted in English and took place between 12 May and 1 December 2014, in accordance with the availability of the various participants.

**Table 7.5: Strengths and weaknesses of the semi-structured interview**

Strengths	Weaknesses
The interview schedule reflects the focus of the concerned research questions.	Standardised wording of questions may in some cases constrain or limit natural responses.
Participants basically answer the same questions, thus increasing comparability of responses; data are complete for each person on the topics addressed in the interview.	Interviews can be costly if participants live and work in different locations that necessitate traveling for the researcher.
Allows the interviewer some flexibility to clarify viewpoints or misunderstandings and to examine interesting or novel ideas arising from the interview responses.	Such interviews are usually more time consuming than structured interviews.
Reduces interviewer effects and bias that can be problematic when the interviewer is close to the interview topics.	As the data are rich and deep, the researcher may find it difficult to use all of it in the analysis and must therefore be selective during the analysis process.
Provides for the generation of rich data.	
Permits evaluators or examiners to see and review the instrumentation used in the interview.	
Facilitates the organisation and analysis of the data.	

Before elucidation of the types of semi-structured interviews that were employed to generate data to answer the second part of research sub-question 2, and research sub-question 4, the nature of the interview schedule is discussed.

### 7.6.2.1 The interview schedule

The interpretive-phenomenological interview consists of open-ended questions focusing on the interviewee's "*articulation of lived experience or felt emotions*" (Henning *et al.*, 2004:53), in the instance of this research, concerning lecturer accountability and security. The interview schedule was developed and employed to generate comparable data across the different research sites, thereby assisting with the gathering of rich data from different participants concerning particular research topics related to the phenomena of lecturer accountability and security (Bogdan & Biklen, 2007:80). Henning *et al.* (2004:53) and Smith and Osborne (2008:63) emphasise that for data thus generated to be deemed credible, the interviewer should act only as guide or facilitator during the interview, continuously guarding against asking leading questions, dictating responses or introducing own viewpoints that may

contaminate or interfere with the data. These guidelines were taken into consideration during the conducting of the interviews of this qualitative study.

The interview schedule for this study (Addendum 7.4) consisted of four topics of inquiry, namely:

- Section A: The teaching-related responsibilities of the HE lecturer
- Section B: The professional status of the HE lecturer
- Section C: The accountability of the HE lecturer
- Section D: The rights and security of the HE lecturer

These topics emerged as current issues and global concerns pertaining to the work, the accountability, and the security of the HE lecturer during the literature study (Chapters 4, 5 and 6) and the analysis of legal sources (Chapters 2 and 3). For each of these topics, two or three open-ended questions were prepared to guide the conversation and to keep the interview on track in terms of the issues to be covered. As proposed by Best and Kahn (2003:256), Guest *et al.* (2006:63), and Smith and Osborne (2008:64), the sequence of topics or questions was not strictly adhered to during every interview since the participants' responses and relevant emerging topics were used to direct the flow of the conversation, while employing inductive probing to further explore key concerns. The interview schedule was made available to the participants before the scheduled interview to facilitate their reflection on the issues to be covered during the interview (Henning *et al.*, 2004:75).

In the following sections the nature and focus of the individual and focus group interviews as employed in this study are explained.

### **7.6.2.2 The individual interviews**

I conducted semi-structured face-to-face personal interviews with twelve participating lecturers from different faculties at two of the SA research sites (Universities A and C), and seven participating lecturers from different faculties at the Australian research site (University D) (Table 7.4).

On request from the interviewees, each of the individual interviews was conducted in the office of the concerned participant. The interview locations were thus comfortable, non-threatening and familiar places to the participants, conducive to open and free discussions of the interview topics (Smith & Osborne, 2008:63). Depending on the willingness of participants to elaborate on the interview themes and the emerging concerns or issues that they raised, each individual interview lasted 40 to 50 minutes. This was in keeping with Forsey's (2012:373) assertion that 40 minutes is a good length for an individual interview since energy levels become depleted and attention may wander after that.

At the start of each interview I made sure that the participant was comfortable, understood the purpose of the interview, and was cognisant of the fact that the answering of any of the questions was voluntary. As suggested by Henning *et al.* (2004:75), whenever necessary during the course of the interview, I made sure that my own understanding of the participant's responses corresponded with those of the interviewee. I managed to honour the pre-agreed allotted time for each interview by rounding off the conversation before an hour had elapsed. The transcription of the interviews and preparation of the transcripts for analysis are discussed in section 7.6.2.4.

During the transcription of the first twelve SA interviews, I was struck by the vagueness in the responses of interviewees to one particular question in Section A, which asked: What are the sanctions for non-performance of your responsibilities? This issue was also raised in section 3.4.4 during the discussion of institutional codes of conduct. I therefore decided to contact the Institutional Human Resources Manager at one of the SA research sites (University A) to arrange for an informal face-to-face meeting to gather additional information on this issue. The same procedure and ethical guidelines were followed to obtain informed and voluntary consent from this participant. Since this informal interview focused on only one topic, I did not prepare an interview schedule but explained the purpose of the interview very clearly to the participant over the telephone and then again at the start of the interview. The interview lasted only 20 minutes but valuable information was generated. The data thus gathered form part of the analysis and findings as presented in Chapter 8.

### **7.6.2.3 The focus group interview**

I conducted one focus group interview with five participating lecturers from a third SA research site (University B) after all my individual interviews had been concluded. According to the guideline provided by Robinson (2012:397), I kept the length of the interview as close as possible to the proposed maximum of 90 minutes (eventually closing the interview after 95 minutes). The interview was conducted in a conference venue of the central academic development unit of the concerned research site. As discussed in section 1.6.7, the focus group interview was specifically employed to generate additional data to corroborate, clarify or elaborate on some of the perspectives and opinions regarding the topics of inquiry that were offered by participants during the individual interviews.

Newby (2010:350) explains that focus group members are often selected on the basis that they represent a certain grouping within the participant sample, and serve for the generation of in-depth data from a particular context. Robinson (2012:394) adds that when the purpose for employing a focus group interview is to gather depth of data on a topic from multiple participants, the group will be homogeneous in nature. With this purpose in mind, the deans

and the academic advisors of the selected faculties of University B were requested to identify lecturers for the focus group (still adhering to the characteristics of the target population and sample) whose passion for and focus on excellence in teaching had been rewarded with a teaching award of some sort during the period 2011-2014. I was aware that the selection of such a distinguished group could extract more positive responses concerning feelings of teaching-related accountability than would have been generated from lecturers with a balanced focus on teaching and research. After carefully weighing the pros and cons, I argued that the more proficient the lecturer the better the insight in matters regarding teaching practice and student learning would be.

While the individual interview “*dislocates the person from their social context*”, focus group interviews permit participants to embrace their social environment by encouraging natural interaction between the interviewees (Robinson, 2012:391-392). As advised by Robinson (2012:393), during the focus group interview my role as interviewer became that of a moderator. I allowed more latitude for participants to respond to one another, but prevented the conversation from being dominated by one or two lecturers, going off track or becoming unruly. Furthermore, as the discussion of a certain topic naturally flowed into other topics, I did not try to follow the order of the interview schedule but used my own judgement to determine when to bring the conversation back to a particular discussion topic.

According to Bogdan and Biklen (2007:109) the focus group interview can elicit multiple perspectives on a topic since participants can encourage each other to share views they might not have considered sharing during an individual interview. On the negative side, a focus group might also inhibit participants to share embarrassing experiences for fear of losing face with colleagues. When selecting the focus group as third method of data generation, I concluded that the nature of the interview topics were such that participants who were willing to talk freely on the subjects of teaching-related accountability, professional status and security, would rather provoke than inhibit those who might have been less talkative if interviewed individually. This assumption was proven accurate in that certain burning issues that emerged while a participant was talking became heated discussions when other participants started sharing similar views. The fact that the five participants had a passion for teaching in common and shared disillusionment with regards to the lack of institutional rewards for teaching excellence, made for the generation of rich, valuable data and emerging perspectives that I had not anticipated at the onset of the study. These are discussed in Chapter 8.

#### 7.6.2.4 Preparing the transcribed data for analysis

In section 1.6.7, the verbatim transcription of the interviews was specified as one of the provisions for the trustworthiness of the study. I commenced with the transcription of participant interviews a few days after each site visit while the interviews were still fresh in my mind. This enabled me to guard against data getting lost or distorted due to bad patches or indistinct speech in voice recordings. Speedy transcription also ensured that a certain tone of voice, a pause, or laughter that may have been significant for the correct interpretation of the transcription, was not lost. As proposed by Newby (2010:461), I had decided to transcribe only the meaningful words of the participants and to exclude speech fillers (e.g. 'umm', 'er' and 'ah'), except when I recognised that the filler would add particular meaning to the spoken sentence.

Although the transcriptions were time consuming, I noticed participant perspectives and opinions that had seemed less significant during the actual interviews when I became truly immersed in the data. Moreover, while this process facilitated reflection on the generated data, I also came to realise that the act of transcribing and reading and re-reading of the transcripts actually served as the starting point of my data structuring and analysis. This is in keeping with Smith and Osborne's (2012:67) assertion that the re-reading of the transcripts is the fastest way to familiarise yourself with the content and viewpoints of your research participants.

When satisfied with a transcript, I sent it to the concerned participant for review and possible amendments to ensure its accuracy. The participant also had to make sure that his or her identity and that of his or her institution were protected throughout. This method, referred to as member-checking, was explained in section 1.6.7. During member-checking a number of participants clarified views that were difficult to gauge from the verbatim transcriptions, and all except two (who did not respond to the invitation to check and amend their transcripts), corrected language errors in their transcripts. After the return of each transcript, I revised the requested amendments and printed the transcripts. Thereafter I read through each transcript again and this time highlighted interesting or significant quotations by hand and annotated parts of texts with phrases or concepts that I thought could later be transferred into codes when using Atlas.ti. This also assisted with the identification of obvious similarities and contradictions across data sets even before the actual in-depth analysis with the aid of Atlas.ti began. Thereafter, as proposed by Saldaña (2013:17), to facilitate easy data transfer from Atlas.ti to my thesis, I revised the data layout in every transcript to resemble the font type, font size and line spacing of my thesis before I transferred the transcriptions to Atlas.ti for further analysis. An example of a final transcript is offered in Addendum 7.5.

## 7.7 THE PROCESS AND METHODS OF QUALITATIVE DATA ANALYSIS

Data analysis refers to a process whereby raw data generated from fieldwork is systematically organised, searched, coded, categorised and re-categorised to arrive at findings for the study (Bogdan & Biklen, 2007:159). Data analysis should be distinguished from data interpretation, last-mentioned referring to the final step in the process where the researcher develops certain ideas about the findings from the analysis and frames those ideas with related literature (Bogdan & Biklen, 2007:159). Creswell (2003:190) explains that the data analysis process involves “*continual reflection on the data, asking analytic questions, and writing memos throughout the study*”. He maintains that irrespective of the type of research design, there are certain steps that are generic to the processes of data analysis and interpretation (Creswell, 2003:191-195), namely:

*Step 1: Organize and prepare the data for analysis.*

*Step 2: Read through all the data to obtain a general sense of the information and to reflect on its overall meaning.*

*Step 3: Begin detailed analysis with a coding process.*

*Step 4: Use the coding process to generate a description of the setting or people as well as categories or themes for analysis.*

*Step 5: Use a narrative passage structured in a preferred manner to convey the findings of the analysis.*

*Step 6: Interpret and present the findings of the analysis.*

The first two steps were discussed in section 7.6.2.4. The third and fourth steps are discussed in detail in the following sections, while steps five and six are addressed in Chapter 8.

### 7.7.1 Using Atlas.ti

Qualitative data analysis can be effectively supported and facilitated by using computer-aided qualitative data analysis software (CAQDAS) (Bogdan & Biklen, 2007:187; Henning *et al.*, 2004:126; Newby, 2010:473). As was the case in this study, the use of CAQDAS is especially beneficial when multiple participant interviews and large amounts of textual data must be accessed, stored and analysed (Bogdan & Biklen, 2007:187; Henning *et al.*, 2004:129; Saldaña, 2013:25). Saldaña (2013:28) emphasises that CAQDAS does not do the actual thinking, coding or analysis for the researcher but “*efficiently stores, organises, manages, and reconfigures your data to enable human analytic reflection*”.

The following factors assisted in the selection of Atlas.ti as CAQDAS for this study:

- *it is appropriate for use when an interpretive approach characterises your research (Bogdan & Biklen, 2007:190);*
- *financial consideration: the NWU Atlas.ti Institutional licence covers the use of Atlas.ti by all employees (Newby, 2010:478; Stewart, 2012:509);*
- *Friese's (2013:9) estimation that Atlas.ti is "a powerful workbench" for the analysis of large amounts of textual data with "a variety of tools for accomplishing the tasks associated with any systematic approach to unstructured data, i.e. data that cannot be meaningfully analyzed by formal, statistical approaches".*

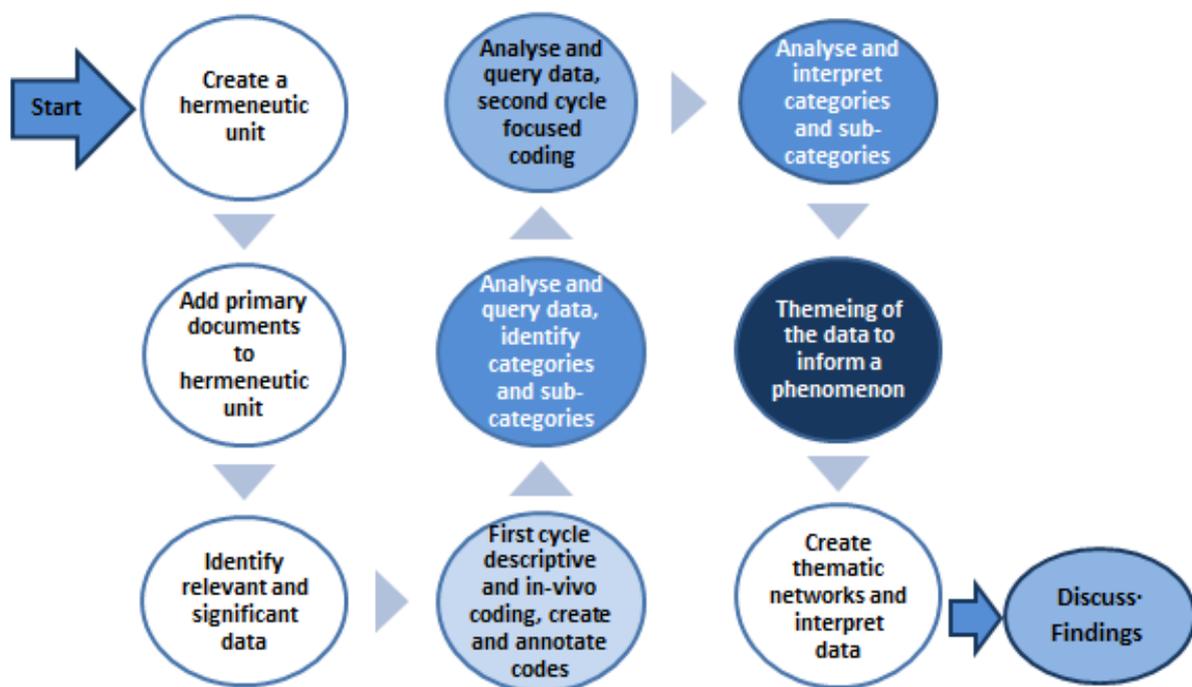
In summary, Atlas.ti provided the type of retrieval, coding, network and theory-building functions that was deemed essential for the effective analysis and interpretation of the empirical data (Henning *et al.*, 2004:133). Furthermore, Saldaña (2013:31) explains that Atlas.ti permits its user to organise complex coding systems into visual networks, a function that was used to great effect in this study as indicated by the different thematic networks illustrated in Chapter 8. To my mind, the search and query functions of this software made the use of Atlas.ti preferential to the much lengthier process of manual coding and analysis.

As the under-mentioned concepts related to working with the functions of Atlas.ti (Friese, 2013:9-19) are used throughout the sections that follow, they are clarified here before moving on:

- *The hermeneutic unit (HU): contains the complete data structure with everything that is relevant to a research project.*
- *Primary document (PD): represent the data added to the HU for analysis, in this case, the transcriptions of all the interviews.*
- *Primary document families: PDs that are grouped according to a specific characteristic they have in common, e.g. the PDs of all SA lecturers became a PD family while the PDs of all Australian participants became another PD family. PD families can be used as a filter when searching for comparisons in data.*
- *Quotation: a part of the text in a PD that is deemed significant or important to the researcher and becomes part of the analysis.*
- *Code: a classification device that captures the meaning of a quote in a single word or in a short phrase.*
- *Code list: a list of all the codes in the HU, and the number of quotations tagged by each code.*
- *Code families or categories: codes that have common characteristics are grouped together to form a category; categories that have common characteristics ultimately inform a concerned theme.*

- *Network: a visual conceptualisation of a theme that allows you to illustrate relationships between categories and codes.*
- *First cycle coding: occurs via certain coding methods during the initial coding of raw data.*
- *Second cycle coding: occurs via other coding methods after completion of first cycle coding and requires the researcher to reflect, re-classify, integrate, synthesise, conceptualise and build theory.*
- *Theme: the outcome of coding, categorisation and analytic reflection.*

Figure 7.1 is an illustration of the basic workflow in Atlas.ti to analyse the transcripts to find answers for the concerned research question.



**Figure 7.1: The main workflow in Atlas.ti**

## 7.7.2 Coding and themeing the data

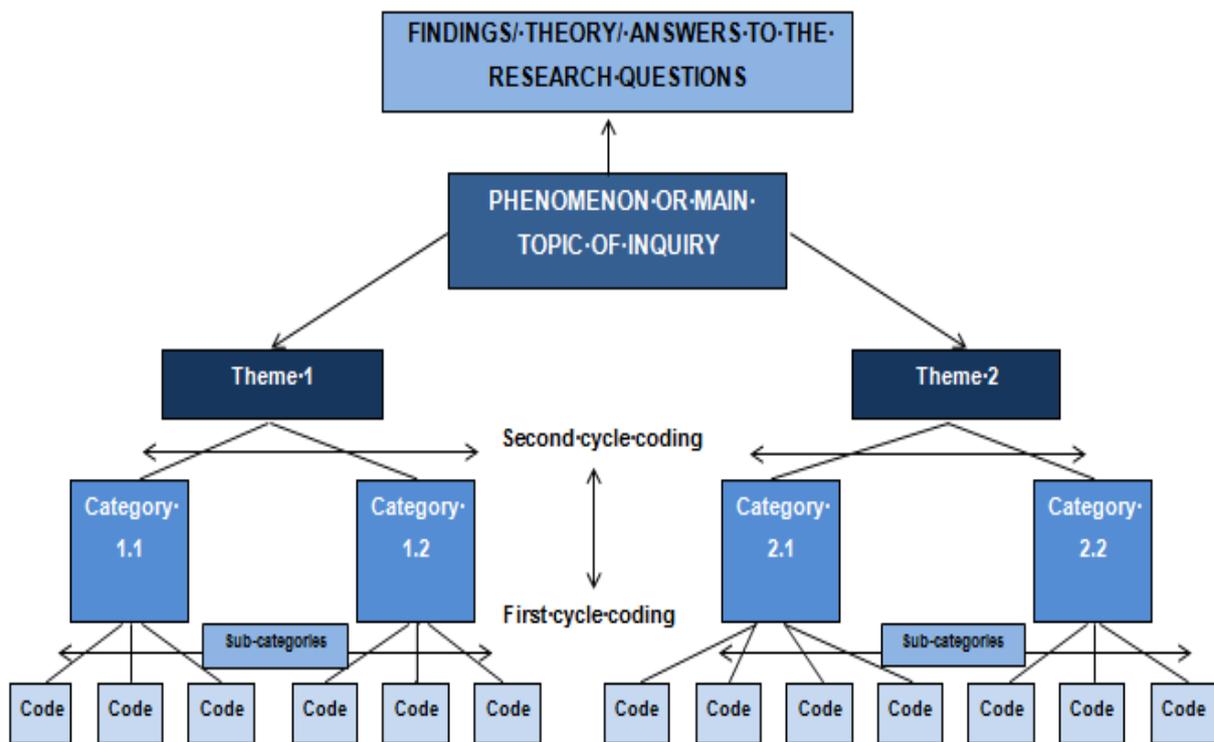
The workflow as illustrated in Figure 7.1 is seldom sequential, as evident from the discussion on the coding and themeing of the data that follows.

### 7.7.2.1 The coding process

The extensive work of Saldaña (2013) on the process and methods of coding for qualitative researchers was used as foundation in decisions regarding the coding, categorisation and themeing of data in this qualitative study. Henning *et al.* (2004:103) explain that the manner in which interpretive researchers access, systemise, organise and rationalise the data

necessarily changes it, thus illustrating the “*analyst’s quality of thinking*”. The goal of qualitative data analysis is therefore to reorganise and reconstruct the raw data in such a way that the researcher can extract meaning deep from within it to facilitate interpretation that will contribute to an understanding of the research issues and answering of the research questions (Newby, 2010:459, 462).

Coding is the first step in the process of qualitative data analysis. Coding refers to the naming or “*tagging*” of selected quotations with a descriptive word or a short phrase known as a code (Creswell, 2003:192; Henning *et al.*, 2004:104; Newby, 2010:463; Saldaña, 2013:3). Coding thus leads the researcher “*from the data (quotations) to the idea (code), and from the idea to all the data pertaining to that idea*” (categories) (Saldaña, 2013:8). An illustration of the basic steps in the coding process is demonstrated in Figure 7.2 (adapted from Saldaña, 2013:13), which forms the basis for the ensuing discussion. It should be noted that although the process as depicted in this figure and in the discussion that follows seems simple and linear in nature, in reality the “*act of reaching theory*” (Saldaña, 2013:12) through analysis was much more complex and time-consuming than had initially been anticipated.



**Figure 7.2: From coding to theory**

As proposed by Henning *et al.* (2004:105), every code that was included in the final code list could somehow be related to one of the two main research topics (lecturer accountability and lecturer security) as denoted in the concerned research question: *how do lecturers perceive their accountability in their teaching-related work, and what are their opinions and perspectives on the nature of their security in light of their perceived accountability?*

The data analysis began with the coding of only the first three PDs in the first HU. Typical of a novice Atlas.ti user, during the first coding attempt I coded every segment of every quote in PD one to three. After exporting, printing and reflecting on my first code list, three things came to mind:

- many of the codes in the code list were closely related to such an extent that the combining of those codes was advisable,
- much of the coded data was actually redundant with regards to illumination of the topics of inquiry (Newby, 2010:467) and,
- even though Newby (2010:468) alludes to the fact that there is no such thing as a perfect number of codes to denote the effectiveness of the coding process, after the coding of only three PDs the code list seemed fairly long, containing 157 codes.

This required further reflection on and analysis of the code list, which resulted in the combining or eliminating of certain codes, and an initial grouping of similar codes into categories.

I found the re-coding difficult and decided at that point to delete the first HU and start over, using the insights gained from the first coding attempt to guide me towards looking at my data in a more critical manner and taking more time to decide on appropriate codes. My second and third coding attempts were much more organised, and more analytic and critical in nature. The first time that all twenty one PDs (twenty individual interviews, inclusive of the interview with the Human Resources Manager, and one focus group interview) had been through first cycle coding, reflection on codes and re-coding, left me with 148 codes. Reflection on and working with that particular code list again led to the identification of codes with sufficient similarities to justify further combining, while other codes were eliminated since they did not add significantly to the illumination of the data.

In this study the HU was reconstructed three times and the coding process was repeated five times - grouping, regrouping, splitting, combining and eliminating quotes and codes, and rethinking and refining code names according to apparent similarities and differences of participant perspectives on the research topics (Akerlind, 2012:118). This is in keeping with Newby (2010:465) and Saldaña's (2013:10) estimation that coding is likely to be repeated several times before the researcher will be satisfied with the results: "*data are not coded –*

*they're re-coded*" (Saldaña, 2013:58). With each coding attempt the quality of the analysis and interpretation was enhanced. The final code list, described by Merriam (2009:180) as the "*master list*" contained only 103 codes (Addendum 7.6), 54 of which could be grouped into 11 categories to inform the themes related to the phenomenon of lecturer accountability; and 49 codes grouped into 17 categories that ultimately informed the themes for lecturer security. Four of the themes were deductively identified from the interview schedule which was the product of the literature study and analysis of legal documents, further detailed in the discussion of the findings of each of the themes in sections 8.3.1 to 8.3.4. The categories related to each of these four themes emerged from the raw data to offer rich descriptions for interpretation and theory building. An additional three themes emerged during the analysis of the data as reported in sections 8.4.1 to 8.4.3, thus meaningfully contributing to the body of knowledge on lecturer accountability and security in the HE context.

Saldaña (2013:59-60) maintains that it is important to select coding methods for each coding cycle that are appropriate for the answering of the research questions of a particular empirical study. He identifies thirty-two different coding methods that can be used during different stages in the coding of data (Saldaña, 2013:59). For this particular study, two coding methods were employed during first cycle coding and re-coding, namely in-vivo coding and descriptive coding, where after those codes were categorised into code families, identified as categories. The categories were also re-thought and re-categorised a number of times. During second cycle coding, the method of focused coding was employed, and what Saldaña (2013:266) refers to as "*themeing of data*" (whereby overarching themes are identified from the final code list and the categories that emerged from first cycle coding). Here follows a brief discussion of each of these coding methods.

### **7.7.2.2 First and second cycle coding methods employed**

As proposed by Saldaña (2013:61) in-vivo coding plus data themeing are appropriate to code data for ontological questions that address the nature of participant's realities (second part of research sub-question 4: ...what are the opinions and perspectives of lecturers on the nature of their security..?). For epistemological questions that address "*theories of knowing and an understanding of the phenomenon of interest*" (first part of research sub-question 4: How do lecturers perceive their accountability in their teaching-related work....?), he identifies descriptive coding plus themeing of data as appropriate coding methods.

During the descriptive coding process, each selected passage, quote or section of text was summarised by a word or short phrase (a code) denoting the specific topic under investigation (Saldaña, 2013:88). Throughout, the focus was on the personal experience and perspective of each participant regarding the research topic, and also on searching for

similar or diverging patterns across the different data sets. In addition to descriptive coding, Friese (2013:192) proposes the use of in-vivo coding “*when the text itself contains a useful and meaningful name for a code*”. It is thus a kind of “*verbatim and inductive*” coding that is used in cases where the researcher wants to “*honour the participant’s voice*” by using words or phrases that are common to the context within which the sample population functions (Saldaña, 2013:91). In the context of this study where the population consisted of HE lecturers, examples of in-vivo codes that emerged from the data were *graduate employability, student through-put and success, research vs teaching, academic freedom and peer review of teaching*.

The outcome of the number of attempts at descriptive and in-vivo coding was a categorised account or summary of the data content (in the form of a descriptive code list with linked quotations) that lay the foundation for the eventual themeing of the data (Saldaña, 2013:89). According to Merriam (2002:7) and Saldaña (2013:5,) one of the primary goals of inductive coding is to identify repetitive patterns across the different data sets in order to develop coding categories (Figure 7.2). Codes with similar characteristics denote such a pattern and were thus grouped into categories.

Saldaña (2013:205) describes second cycle coding methods as “*advanced ways of reorganising and reanalysing data coded through first cycle methods*” to develop themes from the categories that emerged from the first cycle coding. For purposes of this study, focused coding was employed during second cycle coding. During focused coding I searched for the most frequent or significant patterns or categories to either develop new themes from the data, or to link them to identified themes with the purpose of developing as complete an understanding of that topic as was possible (Creswell, 2003:194; Henning *et al.*, 2004:106, 138; Newby, 2010:470; Saldaña, 2013:264). Many of the eventual themes are thus actually the outcome of the process of coding, categorisation, analysis and reflection (Saldaña, 2013:175). When the researcher is satisfied with the conceptual themes, in the case of this study, after three different focused coding attempts, the themes became the basis for an argument and an interpretive discussion for the answering of the concerned research question (Henning *et al.*, 2004:107).

## **7.8 SUMMARY OF CHAPTER**

This chapter provided a comprehensive discussion of and motivation for the qualitative methodology and interpretive paradigm employed in the study. The provisions to ensure an ethical research process were explained and the selection of the four research sites was motivated. The remainder of the chapter was dedicated to the clarification of the practical execution of the empirical phase of the research. The selection procedures and

characteristics of the participants in the empirical study were clearly denoted, as well as the methods and procedures for generation of data for the study. The employment of individual and focus group interviews for data generation was motivated as the most appropriate methods to allow the researcher to develop understanding of the personal perceptions and experiences of the participants regarding the research phenomena. In the final sections of the chapter the employment of Atlas.ti and the process and methods of data analysis were carefully outlined. The following chapter provides the data analysis, interpretation, and findings from the empirical study.

## CHAPTER 8: EMPIRICAL DATA ANALYSIS AND FINDINGS

### 8.1 INTRODUCTION

This chapter presents the outcome of the fourth research aim of this study: to qualitatively analyse and interpret the perceptions of South African and Australian participants regarding their accountability in their teaching-related work, and develop understanding of the nature of their security in light of their perceived accountability (§1.5). The literature study (Chapters 1, 5 and 6), analysis of legal sources (Chapters 2 and 3) and the comparison of Australian and SA sources of law pertinent to lecturer accountability and security (Chapter 4), formed the theoretical foundation for the findings of the empirical study.

As noted in section 7.6.2.1, the interview schedule was structured according to four topics of inquiry that had been deduced from the literature overview and analysis of legal documents: the teaching-related responsibilities, professional status, accountability, and rights protection and security of the lecturer. After many attempts at first and second cycle coding, reflection, re-coding, and organising of codes into categories, the original four topics either became absorbed by emerging categories, or developed to such an extent that they became elevated to the level of research themes.

From the arduous processes of analysis, interpretation and abstraction, seven meaningful themes associated with either lecturer accountability or lecturer security, the two main topics of inquiry (thus the research phenomena), were eventually identified. Four of the themes are clearly linked to the phenomenon of lecturer accountability, while the three remaining themes that emerged from the data, relate to the phenomenon of lecturer security (Figure 8.1). While reflecting on the themes and the categories that emerged from the data, the *link manager* function in Atlas.ti made it possible to specify the nature of the relationships between the categories and the concerned themes (e.g. a category “*is part of*”, “*enhances*”, “*is associated with*” or “*determines*” the theme), thus a function also utilised for interpretive purposes. The findings from the analysis and interpretation of these themes ultimately informed the guidelines to improve the juridical foundation for lecturer accountability to enhance lecturer security (Chapter 9).

Each of the themes related to lecturer accountability is first discussed in sections 8.3.1 to 8.3.4 and then an integrated summary of the findings for this phenomenon is presented in section 8.3.5. The same is done for the themes related to lecturer security (§8.4.1 to §8.4.3 and §8.4.4). Throughout the discussion of the analyses and findings of the themes the perspectives of South African and Australian lecturer are compared.

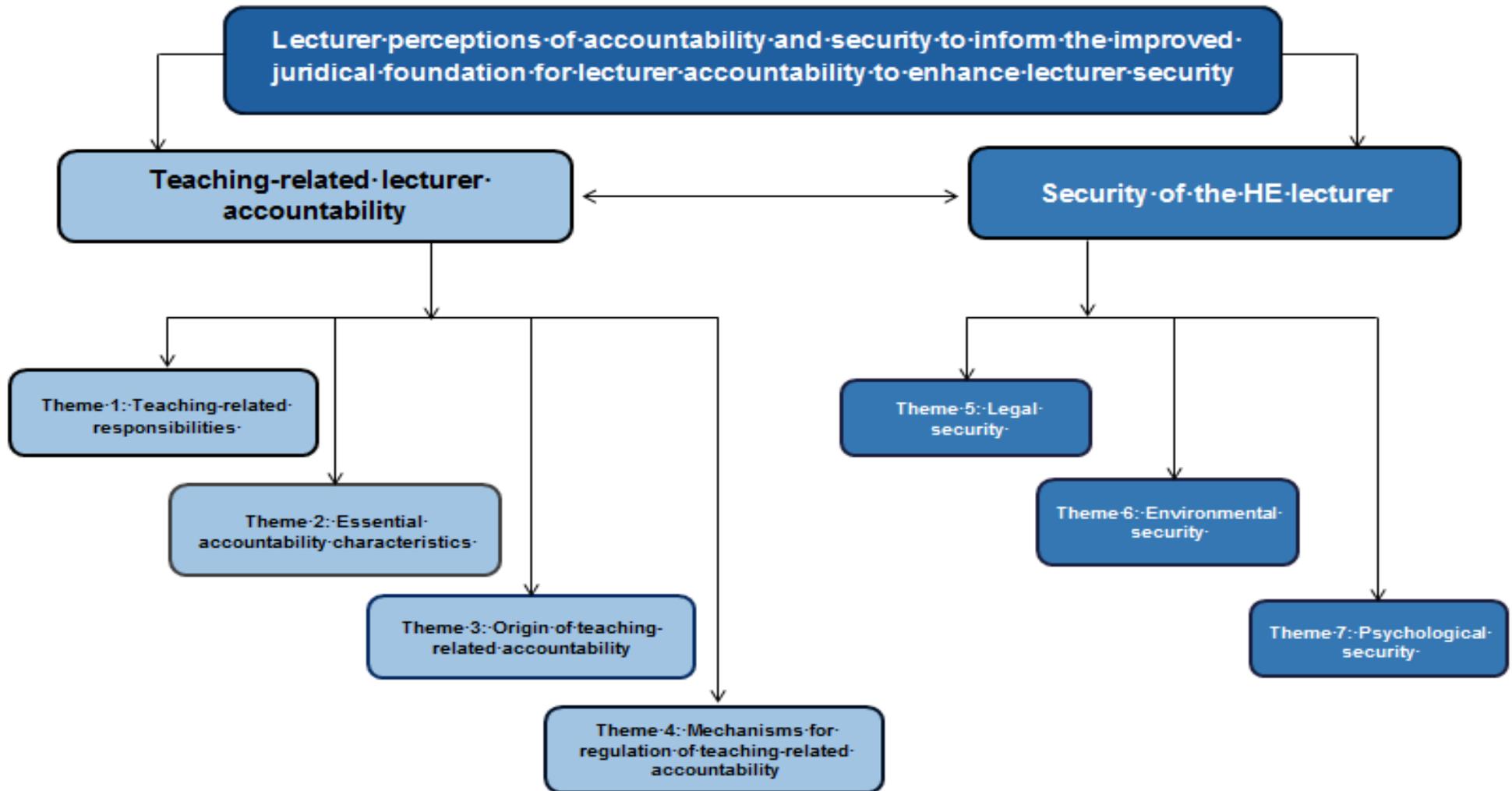


Figure 8.1: The perceptions of lecturers regarding their teaching-related accountability and the nature of their security

The subsequent discussion shows how some of the findings corroborate existing knowledge of a research theme, while other findings convey significant new insights and understanding, ultimately meaningfully contributing to and thus enriching the existing body of theoretical knowledge on the concerned phenomena. The ensuing data analysis and interpretation include substantiation in the form of participant quotes that are of specific significance, and presented in italics in the text. Before the analysis and discussion of the findings of each theme, a profile of the sample of participants is presented.

## 8.2 THE PROFILE OF THE PARTICIPANT SAMPLE

The information obtained from the completed participant background questionnaires (Addendum 7.7) was used to compile a profile of the participant sample. The profile is presented mainly to validate the researcher's intent at the onset of the study (§1.6.4) to select participants from as many different faculties and disciplines as was logistically manageable to generate depth and variation of data from various contexts. The profile is also indicative of maximum variation in other variables in the sample such as gender, age, race and level of academic appointment.

**Table 8.1: Profile of the sample of participants of this study**

	University A (6 participants)	University B (5 participants)	University C (6 participants)	University D (7 participants)	Combined (Total of 24 participants)
<b>Faculties and disciplines</b>					
Faculties	3	3	3	3	12
Disciplines	3	4	2	3	12
<b>Race</b>					
White	3	2	2	5	12
Black	2	1	4	none	7
Coloured	2	1	none	none	3
Asian	none	none	none	2	2
<b>Gender</b>					
Male	2	4	2	3	11
Female	4	1	4	4	13
<b>Age</b>					
20-29	1	none	none	none	1
30-39	3	3	none	none	6
40-49	1	2	3	5	11
50-59	none	none	3	1	4
60+	1	none	none	1	2
<b>Highest qualification</b>					
Master's degree	1	2	4	1	9
Doctoral degree	5	3	2	6	15
<b>Level of academic appointment</b>					
Junior Lecturer (Level A in Australia)	1	none	none	1	2
Lecturer	none	2	3	none	5
Senior Lecturer (Level C in Australia)	3	2	1	1	7
Associate/Assistant Professor	2	1	1	2	6
Professor	none	none	1	3	4
<b>Experience in academic post</b>					
3 years or less	1	none	none	none	1
4-10 years	2	2	3	1	8
11+ years	3	3	3	6	15

As indicated by the profile in Table 8.1, the 24 selected participants from 12 different faculties at the 4 research sites represented maximum variation with regards to academic disciplines, range of age, race, gender, highest academic qualification attained, levels of academic appointment, and years of experience in an academic post. It is important to note that the variation in the indicated characteristics was not devised for purposes of comparing data between participants, but as indicated, primarily to ensure variation in data to develop comprehensive understanding of their individual and collective experiences of the research phenomena.

### **8.3 LECTURER TEACHING-RELATED ACCOUNTABILITY**

The analysis, interpretation and findings for each of the four themes related to the phenomenon of lecturer teaching-related accountability are forthwith discussed.

#### **8.3.1 Theme one: teaching-related lecturer accountability**

The network depicting the categories for theme one is presented in Figure 8.2. Theme one emerged from the literature overview of lecturers' work in a changing HE environment (§6.2) and formed the first topic of inquiry in the interview schedule. It was found to be a determining factor for felt accountability regarding teaching-related responsibilities and accountability towards different stakeholders (§5.4.4). As noted in that section, if employees feel that the demands of their responsibilities are so diverse that it "*extends beyond their capabilities*", they may experience accountability as a threat, resulting in a negative influence on their security (Hall *et al.*, 2006:90). It was thus deemed imperative to investigate the nature of the teaching-related accountability of the lecturer since it should bear on their perceptions of their security.

During final coding and analysis of this theme, three categories emerged from the data. The categories, namely teaching-related responsibilities, expected lecturer conduct, and student success, thus represent components that lecturers feel they are accountable for. Ultimately the guidelines to improve the existing juridical foundation for lecturer accountability (Chapter 9) should offer regulation of these accountability components with a view to enhance the security of the HE lecturer.

The initial coding attempts of quotations pertaining to the teaching-related responsibilities of the lecturer were complicated due to the diversity of responsibilities evident from participant responses. A quote from one of the participants illuminates this dilemma: "*Besides actual teaching, I have all the preparation that goes with it. And then the rest of my responsibilities are very diverse: curriculum content development and revision, resource and materials development, planning of assessments on-line or in-class or for exams, a lot of marking,*

*committee work, admin and more admin, supervision of postgraduate students, student consultation hours and handling of many many many complaints.”*

Only after careful analysis, re-coding and reflection could a clear pattern of responses be identified, and this led to the three emerging categories that are subsequently analysed and interpreted. Included is an integrative comparative component between the perspectives of the SA and Australian participants where last-mentioned perspectives differed from those of the SA participants, or where Australian practices are deemed relevant to inform concerns in the SA context.

### **8.3.1.1 Category 1.1: The teaching-related responsibilities of the lecturer**

The first category that emerged from theme one, namely the teaching-related responsibilities of the lecturer, encompasses three different sub-categories: pre-teaching responsibilities, teaching responsibilities and post-teaching responsibilities.

#### **8.3.1.1.1 Sub-category: Pre-teaching responsibilities**

The participants equated pre-teaching responsibilities with the tasks that they have to attend to before actual teaching of students can take place, confirming that teaching-related responsibilities entail far more than the actual lecturing that occurs in university classrooms (§6.2.2). One SA participant laughingly noted that although lecturer responsibilities were endless and diverse in nature, a view shared by scholars such as Cheng (2010:267), Kinman and Court (2010:415), Morley (2003:93) and Rothmann *et al.* (2008:404), people external to the academy tend to view the work of the lecturer as “*a nice easy job - flexible hours and lots of vacation time*”.

Examples of pre-teaching responsibilities alluded to during the interviews are curriculum and course planning (§6.3.6), selection of appropriate textbooks and other materials, preparation of study guides, and relevant teaching media and technologies for the different courses of a curriculum (§6.3.7). In the SA context, all of these responsibilities are ultimately aimed at ensuring that “*students attain mastery in all ten fields of competence as required by the national SAQA level descriptors for the NQF level of a qualification*” (§3.2.4). Apart from national requirements, a number of the SA participants mentioned the importance of institutional teaching and learning policies (§3.4.2) and knowledge of current teaching practices (§6.3.2) that inform the content of and approach to curriculum and course development.

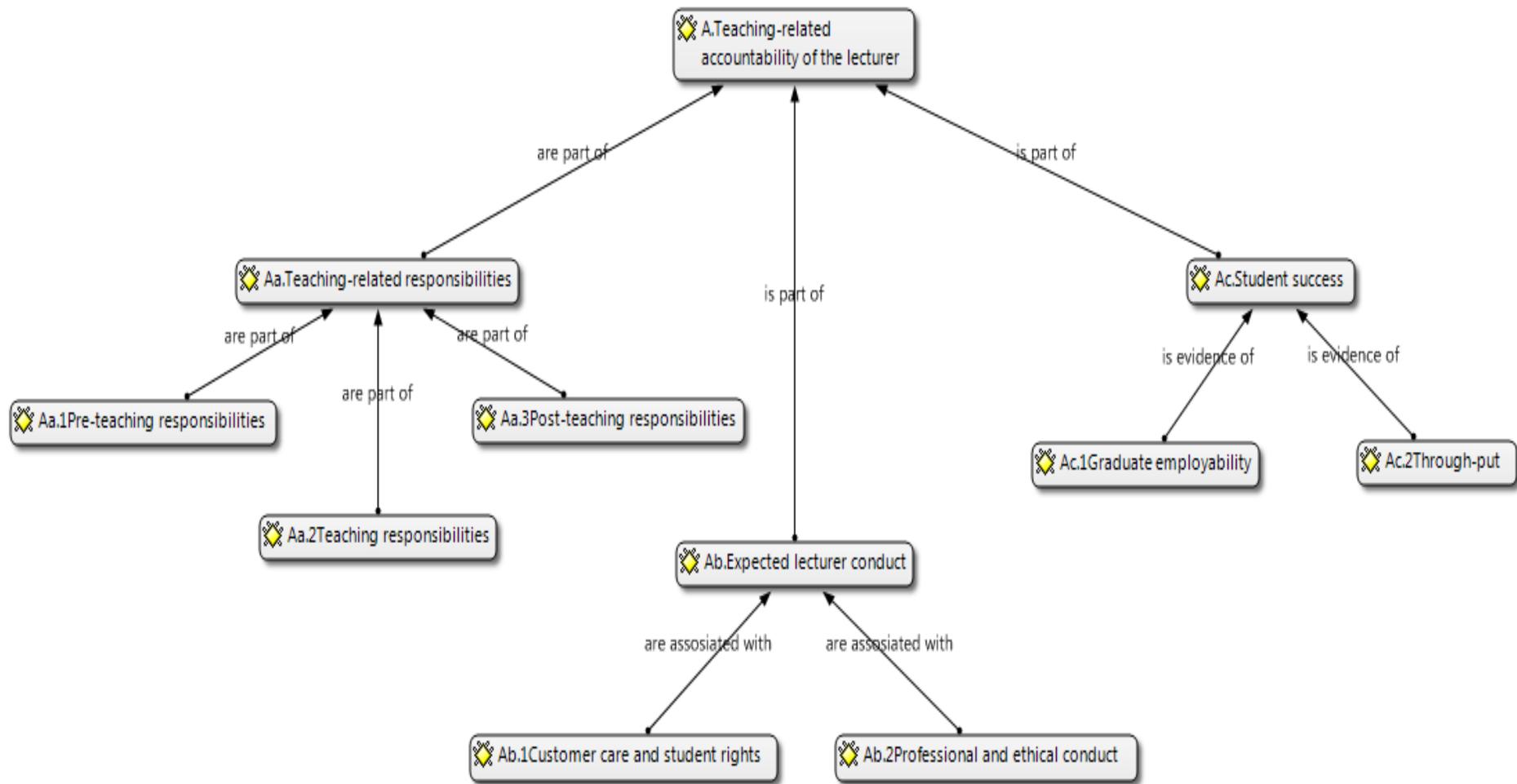


Figure 8.2: Network for theme 1: Teaching-related accountability of the HE lecturer

The opinions of the Australian participants corresponded with those of the SA lecturers concerning national and institutional regulation of pre-teaching responsibilities. One Australian lecturer fittingly summarised this conclusion: *“All of our teaching responsibilities are regulated by certain university and faculty teaching policies and guidelines, inferred from national imperatives, which culminate in the requirement for a so-called teaching curriculum map that must be worked out for every major unit and for the whole degree.”*

SA and Australian participants’ emphasis on the time-consuming responsibility of careful planning for the constructive alignment (§6.3.6) of learning outcomes, teaching methods, student activities and assessment practices (Biggs, 2003a:140; Kember & McNaught, 2007:63; Meyers & Nulty, 2009:565), is indicative of a global trend in HE regarding the requirement of discipline-appropriate curricula that focus on active student learning and continuous quality assessment (§6.2.4). In the SA HE context these requirements have at its foundation subordinate national legislation such as the CHE’s Criteria for Programme Accreditation (§5.3.2), the stipulations of the HEQSF (§3.2.5) and the SAQA level descriptors (§3.2.6) that determine expected exit level graduate outcomes.

#### **8.3.1.1.2 Sub-category: Teaching responsibilities**

Teaching responsibilities were distinguished from other teaching-related tasks by grouping participant responses that specifically mentioned actual classroom practices, inclusive of the implementation of different *“teaching methods to provide a quality teaching and learning experience”* (§6.3.2), facilitating *“student learning through appropriate learning activities”* (§6.3.4), *“technologies and media that are appropriate to assist students to master the outcomes”* (§6.3.7), and *“continuous student assessment and monitoring* (§6.3.5).

It is evident from many of the SA participant responses that they equate the quality of their teaching with the quality of their students’ learning (§6.2.4); thus not only to the mastery of course outcomes, but also to students’ ability to apply the theory and skills that they master in the practice of their disciplines: *“I feel responsible to guide them through the work to reach the outcomes and to make sure that in class there’s a logical and valuable dialogue between me and them – that’s how I determine if they understand what I’m teaching: if they can apply what they learn in practice.”* Another SA lecturer added an additional requirement for quality classroom teaching by stating that students can only benefit from attending classes if a lecturer *“understands how to teach”*. The importance of not only pedagogical knowledge but also skill as part of the lecturer’s teaching responsibilities (§6.2.3 & §5.4.2) was underscored by a number of the SA participants, reiterated by the following quote: *“Since we’re dealing with the tangible problems that we have in education at the moment... students who can’t read or write, and the fact that student numbers per class are so many, if you don’t*

*understand how teaching works, the psychology and pedagogy behind it, and how to be effective and what not to do, then you cannot effectively teach those large groups of students.”*

Moreover, many of the SA participants maintain that teaching quality inevitably requires of lecturers to implement different teaching methods and learning activities that “*actively engage*” their students with the content and the required outcomes, since “*active students are learning students*”. This focus echoes research done by Starr-Glass (2011:1), and Trigwell and Shale (2004:534) who emphasise the placing of the student in the centre of the learning experience, while the lecturer fulfils the role of facilitator (§6.2.4 & §6.3.4). One participant succinctly noted that “*students want to feel that a class has added value to their learning, not just a repeat of something they could’ve read in a textbook. They can Google anything anyway, so if you can’t add value by engaging them, your teaching is worthless.*”

The SA focus group discussion also centred on the issues of teaching quality and the importance of defining roles and performance standards for determining lecturer effectiveness in undergraduate teaching. One of the participants asked: “*what defines being a lecturer?* In answer, a participant noted that “*only if your roles are clearly defined, you can be evaluated to see if you actually do what you’ve been appointed for.*” This speaks to the heart of this study in that lecturer teaching-related accountability should also delineate the roles and responsibilities of the lecturer as discussed in section 6.3. In addition, as emphasised by Huisman and Currie (2004:549) (§5.4.3), since governments usually steer HE from a distance and do not understand “*the internal workings of universities*” while lacking “*the specialised knowledge or the ability to judge the quality of education given to students*”, it is of the utmost importance that the delineation of teaching-related accountability and the responsibilities of the lecturer in this regard receive thorough consideration from within the academic community itself. The conclusions of such deliberations should inform national strategic plans to position teaching quality at the core of the accountability debate. This is the only way that changes in the teaching environment will actually ensure that quality permeates to the level of the student as university client. Such a guideline should thus improve the existing juridical foundation for lecturer accountability.

In the Australian context and across disciplines, the participants voiced a clear distinction between the roles of lecturer as information provider for larger student groups (§6.3.2), and as facilitator for smaller groups (§6.3.4), roles that are implemented interchangeably. A lecturer teaching in Business Sciences explained: “*Formal lectures are content driven and specifically for large class groups where there will not be a lot of interaction during the lecture. Much of the responsibility is on the lecturer... So you work through difficult content*

*and you explain concepts and reteach when students don't understand. When you prepare and present small group tutorials or workshops as follow-up to lectures, you change your approach to rather facilitate than teach, to stimulate active learning and participation.* Another lecturer from the Education Sciences confirmed this methodology: *"The obvious teaching duty and top layer of a lecturer's responsibility is what you see in the classroom – the actual teaching of various units of work to your larger classes, and then to facilitate workshops and tutorials... over a range of teaching units."* Although context is usually a determinant for selecting methodology, this particular Australian teaching methodology may be worth investigating within the SA context given that lecturer capacity allowed for it. Quite a few of the SA participants alluded to the impossibility of stimulating active student engagement in classes with large student numbers – implying a lack of academic staff for smaller follow-up tutorials or discussions. Since the widening of access and increased participation in SA HE are the results of a strategic priority of the DHET (§1.2), a corresponding rise in numbers of academic staff of HE institutions should follow. Such a priority would allow for the implementation of the described Australian methodology that can be instrumental in stimulating the attainment of student engagement and improved graduate learning outcomes as expected from the DHET.

A last aspect worth mentioning within this sub-category is that quite a number of SA and Australian participants indicated the importance of a common definition of what quality teaching entails before lecturers can be held accountable for the quality of their teaching (§6.2.4). The following perspective from one of the Australian participants is an apt example of this viewpoint: *"Sometimes what students think is not good teaching is in fact teaching that encourages them to become self-regulated learners, which perhaps is more beneficial than learning knowledge and passing a course.. And only when quality teaching is defined, can a lecturer's responsibility to ensure quality teaching be determined"*. As inferred by Kember and McNaught (2007:17), a national guideline to inform the teaching-related accountability of the lecturer should thus include a general conceptualisation of what quality teaching entails (§6.2.4). In the Australian context such a guideline already exists in the form of a national standard for quality teaching with corresponding performance indicators (§4.3.2)

#### **8.3.1.1.3 Sub-category: Post-teaching responsibilities**

As indicated by a number of SA participants, the responsibilities related to this sub-category mostly entail the kind of support and assistance that lecturers provide to their students (§5.4 & §5.5). One participant said that lecturers *"basically have to have an open communication system with your students at all times so that they can approach you whenever they need assistance with academic problems."* In addition, the lecturer's mentoring role was

highlighted by a few of the SA lecturers as imperative in the lecturer-student relationship (§6.3.4). This is in keeping with the view of Kember and McNaught (2007:ix) regarding the “*building of genuine empathetic relationships with students*” to improve in-class collaboration and quality of learning (§6.3.3). One SA participant echoed this notion by saying: “*I am their mentor – they come to me for all sorts of advice and assistance and they look up to me as their counsellor. To realise this role takes time, because students must learn to trust you.*”

A number of participants also referred to the “*many diverse administrative responsibilities that take up a tremendous amount of our time*” as an unavoidable post-teaching responsibility viewed as neither “*constructive*” nor “*as a positive aspect of academic work*”. One participant specifically complained that “*most of our tasks make sense, but the admin related to being a lecturer is disproportionate to the value that it adds to my work environment.*” Post-teaching responsibilities mentioned as time-consuming yet beneficial to the work of the lecturer are attendance of conferences and teaching-related committee work. As most of the participants indicated that post-teaching responsibilities add significantly to lecturer workload, guidelines for the regulation of such responsibilities would enhance corresponding accountability expectations.

### **8.3.1.2 Category 1.2: Expected lecturer conduct**

The second category that emerged from theme one, namely the expected conduct of the lecturer, encompasses two distinct sub-categories, namely customer care and student rights, and professional and ethical conduct. Of significance is the fact that, although expected lecturer conduct was not mentioned as part of one of the initial questions in the interview schedule, all but two of the participants commented on their accountability for expected conduct in their teaching-related work.

#### **8.3.1.2.1 Sub-category: Customer care and student rights**

The volume of response of the interviewees on customer care and student rights as accountability component was unexpected since it had not emerged as a focus during the comprehensive literature analysis on either accountability (Chapter 5), or the teaching-related work of the HE lecturer (Chapter 6). In fact, the obligation of lecturers to treat students as university clients was mentioned only twice in the literature overview: first within the context of institutional codes of conduct for lecturers (§3.4.4); and again in the introduction to Chapter 5 (§5.1), where performance accountability is clarified. Yet the SA lecturers in particular repeatedly implied that they were held to account for the care of their “*students as customers*” and for the “*protection of students’ rights*” in the teaching environment.

Many of the SA lecturers alluded to the fact that *“the student as paying customer”* had to be accommodated in decisions with regards to classroom and assessment procedures and teaching outcomes since they had to *“get their money’s worth”*. The perceptions that students are afforded *“a lot of leniency”*, that they have all the rights while lecturers *“have all the obligations”*, and that lecturers *“do not get the respect that they deserve”*, were shared by most of the SA lecturers. One lecturer flippantly said that it was actually better to be a student than a lecturer since *“the student as customer is always right”*, and the lecturer as employee always has to *“deliver service with a smile”*.

Also within the SA focus group a heated discussion with regards to lecturer accountability for customer care and student rights protection is concisely captured in the following response: *“You know the bottom line is that we see the culture of entitlement manifesting with students more and more. They want to do less and receive more.... yet the world of work doesn’t make allowances like that. Input equals output. Of course we have to be accountable, but so do they. And that is not what happens in our environment. We are feeding the monster, making them believe that the customer is always right.”* The above perceptions are motivation enough for clear guidelines regarding the lecturer’s accountability for customer care and student rights protection. A clear national student rights charter may not be amiss in light of the above.

In contrast to the SA lecturer perspectives noted above, Australian participants, though mindful of the students’ rights as paying clients and the requirement to always act in a *“fair and professional manner towards them”*, experienced more of a balance in their accountability for customer care: *“We all have the same rights, so I will respect theirs and they will respect mine. They pay for a quality education and in order for me to give them that; our relationship needs to be one of mutual respect.”* Another lecturer confirmed this perception when noting that, students being students, at some point they will complain, which *“doesn’t mean that the student is always right, but it does mean that we have to take care not to infringe on their rights”*.

Irrespective of the differences in perspectives of the SA and Australian participants as to the nature of their accountability with regards to this sub-category, it is obvious from the above that lecturers across borders regard customer care and the protection of the rights of the student as part of their accountability requirements, thus also in need of clear regulation.

#### **8.3.1.2.2 Sub-category: Professional and ethical conduct**

The second sub-category of expected lecturer conduct pertains to the professional and ethical behaviour that is required of lecturers in their teaching practices. Although a few of the SA lecturers alluded to the fact that their institutions held them to account for expected

conduct via the stipulations of their institutional codes of conduct (§3.4.4), many participant responses were indicative of their ignorance of the existence of such codes. This conclusion was confirmed during the interview with the HR manager at one of the SA research sites: *“staff is not that open to attend in-house training if it has nothing to do with teaching or funding or research.... we’re still very much aware of the fact that there are large numbers of staff who just don’t know what the Code requires and what the consequences will be if they transgress the Code.”* Despite this fact, SA lecturer responses strongly point to the fact that lecturers have an inherent need and self-accountability to act in a moral and ethical manner to the benefit of students and colleagues (§5.4). Nevertheless, one SA participant emphasised that *“accountability should also be defined in terms of specific behavioural standards so that all of us can be on the same page”* (§1.2.1).

The perceptions of the Australian participants, although still indicative of the notion of self-accountability, also point to awareness of and alignment with the expectations that are documented in their institutional codes of conduct, as shown by the following response: *“this code actually forms part of the University’s contract of employment with its staff and it is also a condition of employment that we adhere to the provision therein... in all our teaching behaviours, the way we interact with students and the quality of our teaching is definitely regulated by set standards of conduct that we have to adhere to.”* Most of the Australian participants communicated their awareness of the importance to take institutional policy directives into account in all their actions and decisions, or face certain consequences (§4.3.3.4). There should thus be a focus on greater awareness, and more clarity in the regulation of expected SA lecturer conduct as a primary accountability component in their teaching-related work.

A number of the SA participants acknowledged the value that a national code of conduct for lecturers will add to the regulation of behaviour, but mostly to their protection against unsubstantiated complaints. Furthermore, a number of them noted that the establishment of a professional body that lecturers could register with to *“secure their professional status”* in the eyes of government and public alike would also be of benefit to enhance their security. The issue of professional status is further explored in section 8.4.3.4 for its influence on the psychological security of the lecturer.

One SA participant emphasised that a professional body for lecturers *“will only be beneficial if it also has teeth”* to ensure that the provisions of the code and the expected standards are adhered to, alluding to transparent and appropriate consequences or sanctions in cases where the code is contravened. Transparent and appropriate consequences are further explored in theme two (§8.3.2.3) as essential characteristics of accountability. The above

perceptions are in keeping with my initial thoughts on the value of the SACE Code of Professional Ethics as part of the SACE Act (§1.4.2) for the regulation and protection of the conduct of the SA School educator. The SACE Act also stipulates the disciplinary procedures for educators who are in breach of the Code. Such regulation at national level leaves no room for doubt in terms of what is expected of the employee in a particular field of employment, but also provides the necessary legal protection when innocent employees are subjected to discipline.

The establishment of a professional body for lecturers, and the development of a national code of professional conduct as possible addendum to the SA HE Act, should address many of the issues with regards to lecturer behavioural expectations. These were thus deemed essential to include in the guidelines to improve the juridical foundation for lecturer accountability (§9.3) since both will enhance the security of the HE lecturer. One noteworthy issue voiced by a SA participant as a possible hindrance in the establishment of such a professional body is that *“a national body will require standard qualifications as any other profession does, and I’m not so sure that people will choose the academy as the place of work if all are required to have a Higher Education teaching qualification.”* This should not be a deterrent to prevent the investigation of such a notion, since lecturers, at the onset of their careers in HE, are already required by their institutions to be in possession of at least an Honour’s degree in their discipline of choice. Such a minimum qualification can then be supplemented by the requirement of continuous formal professional development in HE teaching.

### **8.3.1.3 Category 1.3: Student success**

Graduate employability and student through-put rate were identified by participants as evidences of student success, the third category of the teaching-related accountability of the lecturer that emerged from the data analysis. According to Biggs (2001:222), Brew (2003:4), Jansen (2004:310), and Pigozzi (2005:1), student success as accountability requirement is a topic of global concern for HE institutions (§1.2, §1.4.6, §3.4.2 & §5.4.2).

#### **8.3.1.3.1 Sub-category: Graduate employability**

Both SA and Australian participant responses indicated the measure of felt accountability (§1.4.4 & §5.4.4) to fulfil the expectations of future employers, the public and the institution to prepare students for the world of work. This is in keeping with the notion that the lecturer not only fulfils the role of information provider or learning facilitator, but also of practical teacher with a view to ensure that graduates will be prepared to contribute in a meaningful way to the practice of their disciplines (§6.3.2). Yet while graduate employability is deemed a primary measure of student success in the Australian context, it seems that student through-put rates

take precedence in the SA context since management strictly holds lecturers to account for pass rates. A few of the SA lecturers communicated a need for confirmation of their teaching effectiveness in the employability of their graduates: *“If I cannot add value to ensure that my students are better prepared for practice, then I’m not effective in what I do; and I want to be proud of them and I want their employers to say that they were trained well.”*

A number of lecturers mentioned the strain that research output expectations place on the lecturer while *“a university is primarily an educational institution that has the responsibility to prepare students for the workplace”*. One of the participants asked in this regard: *“If my graduates are employable, isn’t that a perfect measure of my effectiveness?”* This view was shared by another participant who maintained that her main responsibility was to *“adequately prepare students for practice. I feel I have to take responsibility for that. My reputation and the reputations of my Faculty and Institution are at stake.”*

Within the Australian context the participants also mentioned the responsibility for graduate employability, emphasising the development of curricula that not only focus on relevant theory but also on current practical skill. One of the Law lecturers stated that *“students have to be employable and practice-ready by the time that they graduate... Our entire curriculum structure is developed around equipping our Law graduates for practice, so it’s that scaffolding of legal skills from the day they step into Law School until the day they leave Law School.”* It is thus obvious that graduate employability as evidence of student success is one of the elements that lecturers perceive as part of their accountability in their teaching practices.

#### **8.3.1.3.2 Sub-category: Student through-put rate**

Whereas graduate employability refers to the measure of student success at the exit level of a qualification, participants perceived student through-put rate or pass rate to encompass the number of *“students that pass the course”* or module of a qualification that each lecturer is responsible for. The SA lecturers were of the opinion that student through-put rates in their courses were viewed as primary evidence of the effectiveness of their teaching. One lecturer mentioned their accountability for *“getting students to pass”* as part of their institution’s strategic goals (§3.4.2), while more than one equated this responsibility with the influence thereof on *“the reputation of the university”* but also on their institution’s departmental funding. While they perceived their institutions to be overly focused on grades, these lecturers still had a focus on their own teaching values.

It was obvious during the individual and the focus group interviews that accountability for student through-put rates is a contentious issue, especially since lecturers *“don’t really have a lot of control over who is admitted into the programme... but at the end of the day you need*

*to account for their successes or failures.” Furthermore, lecturers maintained that while a low student through-put rate was unacceptable, “you also get flack when it does get to more than 80%, because then they say it’s too high and your assessments must then have been too easy.” One lecturer ironically noted that the lecturer was “always in a no win situation... good or bad, either way you have to account for through-put.”*

Most of the Australian participants viewed the lecturer’s accountability for student through-put rate in a much more balanced manner since they perceive that the students themselves are equally responsible for their own successes and failures: *“I would say that it is maybe a 50/50 split in terms of responsibility between you and the students”*. The lecturer’s accountability within the context of this particular research site seems to more aligned to providing students *“with enough opportunities to learn and enough tools to pass the courses”*, as well as effective support and additional assistance when there is a need. One of the participants indicated that their solution to the issue of a balance in student through-put rates comes in the form of a *“distributional check”*. In effect this means that the desired mean for an undergraduate course is determined beforehand, and *“that’s the mean we have to aim for. So, if one assessment is very difficult and marks are very low, the next assessment needs to balance that out to get the distribution right.”*

The above clearly indicates that student through-put rates, especially in the SA HE context, are used as a means to determine lecturers’ accountability for student success and evidence of teaching effectiveness. While the participants identified student through-put rate as part of their teaching-related accountability, it was also related to an institutional accountability mechanism, discussed in section 8.3.4.

In conclusion, the empirical investigation into theme one, related to what lecturers perceive as the accountability components in their teaching-related work, thus revealed three main categories, namely teaching-related responsibilities, expected lecturer conduct, and student success. All of the related responsibilities within each of these categories were initially similarly identified from the literature analysis into lecturer accountability (Chapter 5) and teaching-related work (Chapter 6), except for the elements of customer care and student rights protection that emerged from the empirical data as significant accountability components within the category of expected lecturer conduct. Since lecturers identified these as prominent accountability components in their employment environment, while available literature is silent thereon, it is important that the subsequent guidelines to improve the juridical foundation for lecturer accountability should be clear on the regulation of the measure to which these components are truly the responsibility of the lecturer. This is specifically of significance in the SA HE context since lecturers and students enjoy equal

protection of all their fundamental constitutional rights (§2.1), yet the participating SA lecturers viewed student rights and care of the university client as more authoritative than their own rights in their work environment.

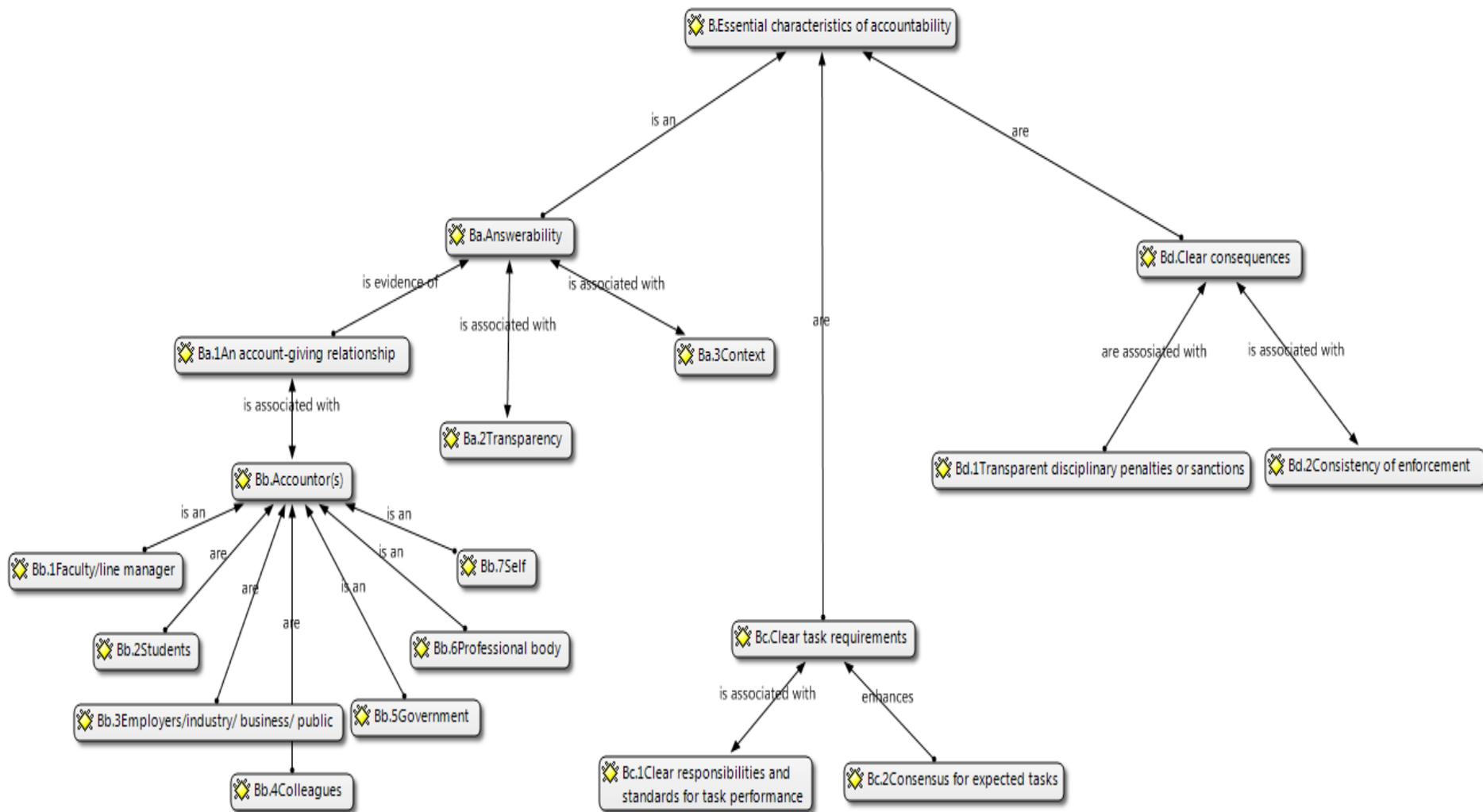
### **8.3.2 Theme two: the essential characteristics of accountability**

Theme two was explored as part of the first and third topics of inquiry in the interview schedule as identified for further investigation during the literature overview of the internal teaching-related accountability of the lecturer (§5.4). After final coding and analysis, three categories emerged, namely answerability, clear task requirements, and clear consequences, thus representing the elements that lecturers perceive as being essential for the enhancement of their teaching-related accountability. The network of categories for theme two is presented in Figure 8.3.

In section 1.2.1 an initial definition for accountability was provided, namely “*the obligation of lecturers to take responsibility for expected tasks and account for their actions and expected outcomes in their teaching-related work.*” The findings from the analysis of theme two were used to develop this definition further. Throughout the analysis of the categories of theme two I focused on finding evidence that the participants, and SA participants in particular, were aware of any juridical framework for their accountability, but in vain. Even though the SA participant responses reiterated many of the characteristics of accountability identified during the literature overview, the participants did not relate accountability to particular legal determinants such as the constitutional or labour rights framework. The search for such an awareness continued during the analysis of perceptions related to the origin of lecturer accountability of which the results are discussed in section 8.3.3. Subsequently each of the categories of theme two is analysed and interpreted, inclusive of an integrated comparative component between the perspectives of SA and Australian participants.

#### **8.3.2.1 Category 2.1: Answerability**

The first category that represents an essential characteristic of accountability as identified by many of the SA and Australian participants comprises the concept of answerability, “*the responsibility we have to answer for the things we’re supposed to do, the decisions that we make which affect other people*” and “*justify decisions with valid reasons*” to different stakeholders.



**Figure 8.3: Network for theme 2: The essential characteristics of accountability**

This is in keeping with the views of Bovens (2007:450) and Hall *et al.* (2006:88) that accountability is only evident when an employee is answerable to someone for the fulfilment of certain responsibilities (§1.2.1 & §5.2.1), thus directly relevant to the issue of the lecturer's legal obligation towards his or her employer, as derived from his or her employment contract (§1.4.3). The analysis of participant responses revealed three different sub-categories for answerability, namely the existence of an account-giving relationship, transparency in decisions and behaviours, and context as determinant for type of accountability.

#### **8.3.2.1.1 Sub-category: An account-giving relationship**

The existence of an account-giving relationship between the lecturer and certain stakeholders was recognised by many of the participants as part of answerability. As discussed in section 5.4.4, Hall *et al.* (2007:408) identify “*accountability intensity*” (*the degree to which an individual is held accountable to multiple persons and/or for multiple outcomes in the same organisation*) as one of the four main elements of felt accountability that is indicative of how accountable an employee feels in the workplace. According to their definition, the accountability intensity of lecturers is significant in that, as evident from the participant perspectives, the accounters (*stakeholders*) of lecturers in their teaching-related work are numerous.

A number of participants identified faculty management or their line managers as one group of accounters with high expectations, especially for student through-put rates. One SA participant stated that “*if I sign my task agreement, my line manager expects of me to deliver on my promises, as I then agree to the duties stated therein*”. Students were mentioned by a majority of the lecturers as their primary accounters, not only in terms of what they learn, but also in terms of their “*professional development and personal growth*”. One of the SA participants added that “*I’m also accountable to treat students equitably and fairly..., they must be respected, their learning needs must come before my needs*”, clearly linking the account-giving relationship to the expectation of professional and ethical conduct as discussed in section 8.3.1.2.2. The issue of students as clients and therefore as main accounters was again mentioned by a number of the SA participants.

Other accounters that were referred to by a number of SA lecturers, and the majority of the Australian participants, were future employers, industry or the broader public where their “*students will one day work and demonstrate what we as lecturers taught them*” (§6.2.1), neatly summarised by an Australian participant who said that “*we have a responsibility to society to deliver graduates who can perform their work role effectively since we use public funds and resources.*” Another Australian lecturer went so far as to state that “*if I’m questioned on what I do and why by the Dean or any other person in authority, if they felt it*

*was at odds with what I want to do for the community, I suppose the good of the community would in the end take precedence for me.”*

Participants also perceived colleagues as accounters in their teaching-related work, referring to the importance of “*collegiality*” and the establishment of “*communities of practice*” that hold their members accountable (§5.4.3). Many of the participants, and especially those who participated in the focus group interview, mentioned collegial accountability as effective for maintaining teaching quality since they believe that peers know and “*understand what teaching is about*”. In addition, one Australian lecturer explained that colleagues “*still hold each other responsible, and in an academic community you can feel pretty much left out in the cold if your colleagues don’t approve of your behaviour or of your ethics and goals.*” Collegial accountability thus reaches farther than only the teaching-related work of the lecturer.

A few of the SA participants also cited the government as indirect accouter, one lecturer noting that “*in the end we are all accountable to the government, because they hold all the cards with the audits, and they have the purse*” (§5.3). Professional bodies as accounters for the requirements of curriculum content and graduate outcomes were mentioned by a few lecturers teaching in professional degrees, while self-accountability, also referred to as personal or ethical accountability (§5.4.4), was noted by quite a number of SA and Australian participants as a main motivator for taking their responsibilities seriously: “*I definitely hold myself accountable to a much greater degree than anyone of the university administrators or my colleagues*”.

A few of the SA and Australian responses indicated a preference for a professional accountability system in the HE environment, which is consistent with Romzek’s (2000:26) idea that such an accountability system provides for “*work arrangements that afford high degrees of autonomy to individuals who base their decision-making on internalised norms of appropriate practice.*” This notion of professional accountability is further investigated in subsequent themes pertaining to the environmental and psychological security of the lecturer (§8.4.2 & §8.4.3). Self-accountability is also further explored in the discussion on theme three since “the self” is also deemed an originating source for lecturer accountability (§8.3.3.3).

#### **8.3.2.1.2 Sub-category: Transparency**

Apart from the account-giving relationship, another sub-category that emerged during the analysis of the data was the issue of transparency, identified by one SA participant as “*non-negotiable*” for determining accountability (§5.2.1). A SA lecturer noted that transparency is not only about demonstrating commitment to teaching-related responsibilities, but also to

demonstrate openness to accept critique, *“to grow and to honestly assess my own work”*. Transparency and self-accountability were often used inter-changeably, one participant stating that true accountability means that you are transparent in what you do *“even when no one is looking”* and another saying that you also have to *“own up to your mistakes”*. Transparency was seen as a concept as relevant to management as to lecturers for the enhancement of accountability.

In line with Neyland (2007:499) in section 5.2.1, a few of the participants in the SA focus group also alluded to the fact that the expectations of answerability and transparency sometimes lead to a false accountability in that individuals will temporarily adopt expected behaviours and outcomes to appease accounters. One focus group participant said that not all lecturers are accountable but *“some people are very good at putting on a show and acting in the right way when certain people are looking. Yet when no one is judging their performance, they don’t act in a responsible manner at all.”* This is motivation for the development of clear accountability guidelines to enhance transparency in the teaching environment as well, thus an important guideline to improve lecturer accountability.

#### **8.3.2.1.3 Sub-category: Context**

The final sub-category that emerged for the concept of answerability as an accountability element was the participants’ perceptions that answerability is usually context-specific. Focus group participants especially alluded to the importance of context for the expectation of answerability, one noting that *“in some Schools lecturers are being held to account for everything from office hours to student through-put. In others lecturers are only answerable to themselves and for their research outputs... accountability is something that is micro-managed and not standardised”*. Another lecturer added an appropriate example of the context-dependency of accountability definitions (§5.1 & §5.4.2), explaining that *“it would mean something different for a doctor than it would for me. In my context as a lecturer, the outcomes of my teaching determine if I’m accountable or not. A doctor is responsible for physical life of a patient. I guess a lecturer is responsible for the intellectual life of a student.”*

Within the HE environment, and specifically in the context of teaching-related accountability, a number of lecturers noted that accountability of lecturers was ultimately linked to the quality of their teaching practices, one SA participant stating that *“you need that clear definition of what quality teaching is if you want to measure a lecturer’s teaching practice and judge his accountability in those terms.”* This is aligned to global perspectives on the importance of a uniform definition of teaching quality to determine accountability in this context (§6.2.4).

One additional aspect worth noting regarding context is the views of a number of Australian participants of post level as determining factor for the accountability of a lecturer. One

participant noted that “*our levels of appointment for academic staff are very clear. So, depending on your post level, you may have a heavy teaching load with a lot of related responsibility, but not much in terms of research or service.*” This corroborates the findings reported in section 4.4.1 regarding the clear classification of academic staff appointments (Level A to E) in the 2010 National Award for academic staff that forms part of the labour legislation governing HE in Australia as discussed. Post level is again noted as originating source of lecturer accountability in theme three (§8.3.3.1).

### **8.3.2.2 Category 2.2: Clear task requirements**

The second category that emerged from the interview data, thus representing another essential characteristic of accountability in the eyes of most of the SA participants, is clear task requirements as reiterated by Breaux *et al.* (2009:308), McGee and Gaventa (2010:14) and Nieuwenhuis *et al.* (2007:104) (§5.2.2). The two sub-categories that were associated by the lecturers with clear task requirements are clear responsibilities and standards for task performance (§5.2.2 & §6.3), and the importance of consensus between the lecturer and his or her accounters in terms of expected tasks, a legal principle of the law of contract (§1.4.3).

#### **8.3.2.2.1 Sub-category: Clear responsibilities and standards for task performance**

SA participant responses gave evidence that lecturers were unsure as to which specific tasks they had to account for in their teaching-related work, especially for promotional purposes. Many of the SA participants viewed through-put rate in their respective courses (unfairly) as the primary standard against which their teaching effectiveness was measured. Others alluded to the fact that their task agreements or job appraisals were “*broad statements of responsibilities*”, simply stating the courses that they were responsible for, but not what such responsibility entailed.

One SA participant said that “*you can only be held to account if your responsibilities are clearly explained. If you know what is expected of you and how you should behave.*” Yet a number of the participants felt that clear expectations in terms of teaching responsibilities were lacking while “*the only thing that is always clearly stated is the number of publications that you have to deliver*”. The focus on research outputs was further debated in the focus group, one participant saying: “*We are here to teach, right? Yet we are more responsible for research outputs than for teaching quality.*” The research vs teaching debate is further discussed in section 8.4.2 as this issue also has a clear influence on the security experienced by HE lecturers.

In the focus group discussion one of the participants concluded that “*your task requirements and standards will differ depending on who the stakeholder is that you have to keep happy.*”

As became evident from the analysis of the themes related to the security of the lecturer, vagueness in terms of task requirements and expected conduct has a negative effect on lecturer accountability and ultimately also on lecturer security (§8.4.2). It can thus be concluded that a clear delineation of teaching-related task requirements in the form of a list of expected responsibilities, clear standards to measure the effectiveness of task completion, and consensus between the lecturer and his or her line manager regarding these expectations would have a positive impact on lecturer accountability. Such a recommendation should thus bear on the guidelines to improve the existing juridical foundation for lecturer accountability since it would have a positive effect on the enhancement of lecturer security.

#### **8.3.2.2.2 Sub-category: Consensus for expected tasks**

The issue of consensus, though not addressed as part of the literature overview on the elements of accountability (§5.2), is a legal requirement for the validation of an employment contract (§1.4.3 & §3.4.3). Only a few of the SA participants mentioned the importance of “*consensus between the lecturer and his line manager on the tasks to be performed*” as an essential element for the determination of lecturer accountability. In the SA focus group interview a number of participants indicated that workload and teaching allocations were planned with their line managers, but as one participant pointed out “*you agree to certain tasks and goals for the coming year, but every single year you do a lot more than was initially agreed on.*” Another focus group participant noted that “*task agreements are maybe more for show and for managerial reporting purposes, because we all know that you have to out-perform your task agreement for promotional or merit purposes.*” Such practices can be questioned in light of the lecturer’s right to fairness in labour relations as provided for in the Labour Relations Act (§3.3.2).

From the above it is evident that consensus for expected tasks is not necessarily an accountability element that lecturers view as a contributing factor to their felt security, an issue that should therefore form part of the guidelines to improve the juridical foundation for lecturer accountability. The issue of a fair workload is further discussed in section 8.4.2.6 as it pertains to the lecturers’ perceived security.

#### **8.3.2.3 Category 2.3: Clear consequences**

The last category that emerged for theme two, and thus the final characteristic that participating lecturers identified as essential for the enhancement of their accountability, is clear consequences for negation of accountability expectations (§5.2.3). The data analysis revealed two sub-categories that are related to clear consequences, namely (i) transparency of disciplinary penalties, sanctions for offences or inadequate performance (§1.2.1 & §5.2.3),

and (ii) consistent enforcement of appropriate penalties (§5.2.3), thus in line with general labour law principles.

The significance of clear consequences for accountability expectations is underscored by the following utterance by one of the SA participants: *“Accountability is about regulation, but also about development....They want us to be accountable, but there are no incentives for adherence to expectations, no clear consequences for inadequate performance, and certainly no motivation for development. I feel that there’s a conflict there, which means that accountability mostly makes us weary and distrustful of one another. If I know what I’m accountable for, and to whom I must account, and what the sanctions or rewards will be, there will seldom be a problem with my accountability.”* The issue of trust in the accountability relationship is further explored during the analysis of lecturer security (§8.4.3.1).

#### **8.3.2.3.1 Sub-category: Transparent disciplinary penalties or sanctions**

Section 5.2.3 offered Grogan’s (2003:98-102) classification of the severity of disciplinary penalties in the labour environment that is determined by the nature of the offence. From many of the participant responses on the issue of penalties for neglect of duty or more serious offences, it was evident that although they were aware that serious misconduct like *“inhumane treatment of students”* or *“sexual harassment claims”* may lead to dismissal *“if you are found guilty”*, they were very unsure of penalties or consequences for less serious offences. Most of them alluded to verbal warnings for first time offenders, and written warnings if *“bad behaviour continues”*, but they mostly agreed that with regards to teaching per se, *“lecturers in permanent positions can just about do what they like”*, and that they cannot *“get demoted or fired for being bad teachers”*. There thus seems to be an absence of clear institutional consequences for disregard or repudiation of teaching-related responsibilities, and as one participant tersely explained: *“no one has ever explained to me what effectiveness means in our teaching environment. It’s not as if there are certain criteria that we have to adhere to every year and if we don’t measure up, we face consequences.”* Transparency of consequences was further highlighted by a participant who was adamant that *“only if regulation means that there will be clear and appropriate negative consequences if you don’t do what you’re supposed to do, only then will regulation of accountability really be effective.”*

In the focus group discussion a few of the SA lecturers mentioned that they thought continuous negative student evaluations or complaints of bad teaching practices would negatively affect their chances of merit bonuses, and ultimately negatively affect their chances of promotion. Yet others had strong opinions to the contrary in that *“if you are*

*excellent in research and you have a good publications list, then they'll keep you in the system at all costs, irrespective of how bad you teach", another stating unequivocally that "promotion up the ranks is much faster if you are a good researcher."*

Contrary to the SA lecturer perspectives, the issue of disciplinary penalties or sanctions for neglect of teaching-related expectations in the Australian context is much simpler. Many of the participants alluded to the fact that most lecturers appointed at the lower post levels where teaching load and expectations are high, are appointed on contract basis. Therefore, should those lecturers not perform up to standard in terms of teaching expectations, their contracts will simply not be renewed.

#### **8.3.2.3.2 Sub-category: Consistent enforcement of appropriate penalties**

A few of the SA participants indicated that some lecturers will *"get away with bad teaching"* and *"not experience negative consequences even when they shirk their teaching responsibilities"* while others would be *"called to task"* for every student complaint, irrespective of the severity thereof. One lecturer said that if there existed *"a clear list of penalties for the types of behaviours that can land you in hot water, maybe if such a list existed and was actually adhered to by management, people will take neglect of duty more seriously."* The issue of consistent enforcement was not noted by any of the Australian participants, thus indicating that this may not be an issue in their context.

This concludes the analysis and interpretation of the essential characteristics of accountability as perceived by participating lecturers. As noted in the introduction to this theme, none of the participants mentioned any knowledge of a juridical framework against which they could measure their perceptions of their teaching-related accountability.

### **8.3.3 Theme three: the origin of lecturer teaching-related accountability**

One of the questions in the interview schedule asked of lecturers to explain what they perceived to be the origin of their teaching-related accountability. This issue was identified as pertinent for further investigation during the analysis of institutional lecturer employment contracts, which showed a lack of clarity regarding the specification of the teaching-related accountability of a lecturer (§3.4.3). The researcher therefore wanted to determine whether the lecturers had any opinions with regards to the legal sources that they deemed relevant to their accountability in their teaching-related work. The network for theme three with its categories is presented in Figure 8.4.

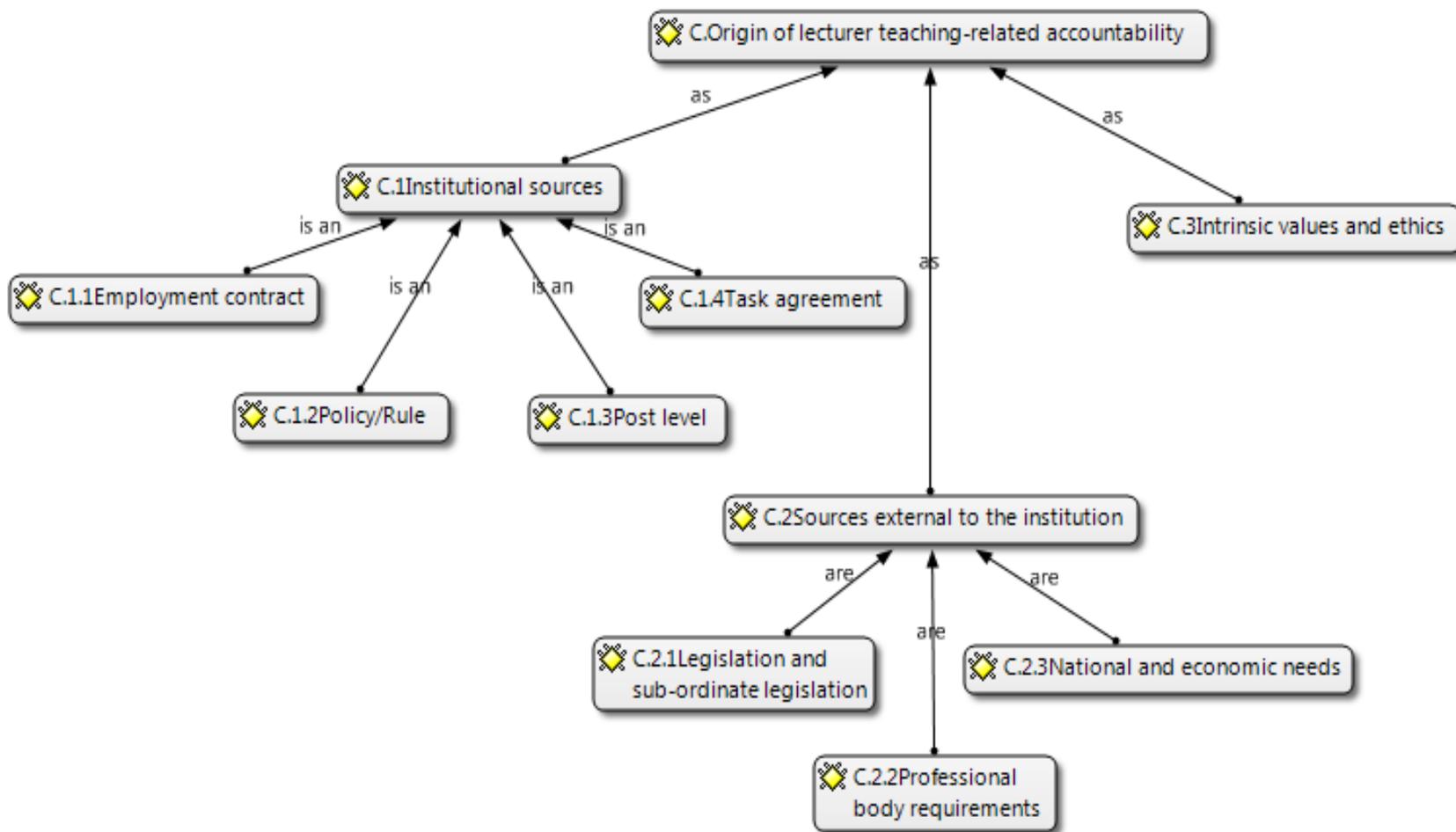


Figure 8.4: Network for theme 3: The origin of the teaching-related accountability of the lecturer

Three categories emerged during the analysis of the data related to this theme, indicating that lecturers recognised intrinsic values and ethical codes, institutional legal sources, and sources external to the institution as possible originating sources for their accountability. During the analysis it came to mind that the origin of lecturer accountability was closely related to the stakeholders that the participants had identified as their accounters in their teaching-related work (theme 2, category 2.1, §8.3.2.1.1). Similar to originating sources internal and external to the institution, the accounters that lecturers had identified could also be categorised as groups that are part of the institution, and groups external to the institution (Table 8.2). The self in its dual role of accounter and originating source of accountability was also notable in this context.

**Table 8.2: Similarities in originating sources for accountability and accounters**

	Within the institution	External to the institution	Self
<b>Origin of accountability (Theme 3)</b>	<ul style="list-style-type: none"> <li>Policies and rules</li> <li>Employment contract</li> <li>Task agreement or job appraisal</li> <li>Post level</li> </ul>	<ul style="list-style-type: none"> <li>Legislation and subordinate legislation</li> <li>Professional body requirements</li> <li>National and economic needs</li> </ul>	<ul style="list-style-type: none"> <li>Intrinsic values</li> <li>Internal code of ethics</li> </ul>
<b>Accountability accounters (Theme 2, category 2.1)</b>	<ul style="list-style-type: none"> <li>Faculty or line manager</li> <li>Students</li> <li>Colleagues</li> </ul>	<ul style="list-style-type: none"> <li>Employers, industry, business or the public</li> <li>Government</li> <li>Professional bodies</li> </ul>	<ul style="list-style-type: none"> <li>Self as accounter</li> </ul>

**8.3.3.1 Category 3.1: Institutional sources**

The data revealed four different institutional sources for lecturer teaching-related accountability, namely lecturer employment contracts (§3.4.3), institutional policies and rules (§3.4.2), post level and the task agreement or job appraisal. Corroborating the findings from the analysis of institutional determinants for lecturer accountability (§3.4), employment contracts and institutional policies and rules were viewed by participants to be foundational to their accountability, but not at all comprehensive in its particularisation of their teaching-related work. Two additional emerging sub-categories, namely post level and the task agreement or job appraisal, were perceived to be slightly more specific in terms of their teaching-related accountability.

One SA participant said that the employment contract “*underwrites what your duties and responsibilities are in general, as well as your employment conditions.*” Another indicated that such a contract is “*very generic in nature*”, applicable to all lecturers employed by an

institution, and does not state specific responsibilities but only that the academic employee will be *“required to teach, to do research and to participate in certain administrative and service activities.”* Similar perspectives were voiced by a few of the Australian participants. A few of the SA participants admitted to not even remembering the content of their employment contracts, only that it included their conditions for leave and remuneration. A number of the SA participants mentioned that the value of the employment contract lies in its assurance of a permanent appointment and the institution’s commitment to pay their monthly salaries, thus related to their job security (§8.4.2). Yet a few of the lecturers indicated that in their signing of the contract, they also *“agree to adhere to the institution’s policies”*, to *“honour the obligations agreed”* therein and *“to promote the mission and goals of the institution”* in all decisions and behaviours, thus clearly also related to the origin of their accountability.

A number of SA lecturers made reference to the significance of institutional policies and rules as originating sources of their accountability (§3.4.2). One SA lecturer noted that *“teaching and learning, and assessment policies mostly provide the framework for what we can and cannot do”* while another reiterated this view by stating that *“we need that framework so that we can know what the boundaries are within which we should function. The policies and rules determine the how, but the lecturer mostly determines the what.”* A few of the lecturers mentioned the institutional code of conduct as the originating source of their expected behaviour. This perception was echoed in the interview with the HR manager who noted that *“the disciplinary code and code of conduct for academic staff are first and foremost to regulate behaviour and to be used as a measuring instrument for acceptable and unacceptable behaviour.”* Australian participants held similar views with regards to the prominence of policies, rules and institutional codes as origin of lecturer accountability in the teaching environment.

Post level emerged strongly as a significant institutional source for lecturer accountability in all but one of the Australian participant responses, again indicating the significance of the inclusion of the post level indicators in the Australian Modern Award for academic staff (§4.4.1). A number of the Australian participants indicated that their institution also had an additional guideline document, refining the post level indicators of the Modern Award specifically for their university’s context in terms of teaching, research and service requirements. A smaller number of the SA lecturers mentioned post level as accountability source, yet the importance thereof is evident from their responses: *“junior lecturer cannot be held accountable for all the same things as say, a senior lecturer with many years of experience and more pay. Your level of appointment should in a way determine what you are responsible for.”* Another participant agreed that *“the requirements for teaching,*

*research and community service load change with rank and with status. The higher your rank, the higher the expectations.”*

It was notable, however, that the lack of a clear structure for different post levels in the SA context complicated lecturer perceptions of their accountability, specifically for teaching-related expectations. Especially in the focus group where the SA participants shared a focus on teaching excellence, the discussion on this topic was intense. One of the focus group participants noted that because he was a good lecturer, his *“list of teaching duties has grown tremendously over the past few years, and where it would end no one knows There isn’t a clear task structure for what they can expect at my post level”*. Another criticised his institution for its lack of *“performance indicators”* that are needed to guide a lecturer in his or her career decisions to ensure promotion up the ranks: *“for me it feels that every time promotion is to my mind an option, the boundaries for being promoted somehow moves. You are working towards a moving target.”* This is once again an issue that brings to the fore the questionable notion of fairness in labour practices that is supposed to be a right of every lecturer. From the above it can be deduced that a clear national guideline for the delineation of post levels and corresponding responsibilities as an original accountability source that can be contextualised at institutional level, will influence lecturers’ accountability and ultimately, also their security positively.

The final institutional document identified by quite a number of the participants as an important accountability source is the task agreement or job appraisal. The task agreement had also been associated with clear task requirements as essential characteristic of accountability (theme two, §8.3.2.2.1). As an institutional accountability source, a number of the participants viewed the task agreement or job appraisal as an extension and particularisation of their employment contracts, and the foundation for determining annual performance bonuses when lecturers out-performed their agreements. While the contract was perceived as static and generic in nature, there was general consensus that the task agreement, as part of the annual performance management system of a university, was more specific in terms of what the lecturer had to account for, yet still not indicative of teaching-related responsibilities other than the *“responsibility to teach certain courses”*. Although transparent consequences or sanctions for accountability negation were noted as an important element of lecturer accountability (§8.3.2.3.1), no respondents indicated that their task agreements or job appraisal contained any clear corresponding sanctions for not performing to the expectations. It is evident from the above that institutional legal sources that inform the teaching-related accountability of the SA lecturer should thus contain clearer guidelines as to the exact nature of such accountability as well as the sanctions in breach thereof.

### 8.3.3.2 Category 3.2: Sources external to the institution

The analysis revealed three accountability sources external to the institution, namely national and subordinate legislation, professional body requirements, and national labour or economic needs. As underlined in the review and analysis of SA HE legislation (§3.2), the SA lecturers deemed external accountability sources linked to their teaching-related work mostly to be the strict regulation of qualification design (the HEQSF, §3.2.5) and the expected graduate competencies as required by the SAQA level descriptors (§3.2.6). A few of them also noted the DHET's expectation of teaching quality, regulated via the criteria of the HEQC's audit system (§5.3.2), which they perceived as an indirect determinant of proof of the quality of teaching-related work their institutions expected of them to provide.

The participants who taught modules or courses in professional qualifications, which necessitated graduates to register with a professional body before entering into practice, also mentioned the importance of professional body requirements as an external source to be taken into consideration when curricula were planned, and graduate attributes determined. A few participants also alluded to the labour and economic needs of the country that sometimes indirectly determined what they were held accountable for. As an example, one participant said that *"if we are in dire need of people who can speak and teach more African languages to educate our youth to work in diverse communities, then we need to employ lecturers who can answer to that public call."* Another mentioned that *"we are indeed training the workforce of the future and we have to answer for our effectiveness and the employability of our graduates. Our communities have certain needs and we have to account for making sure that we deliver."* This is in keeping with the views of Burke (2004:5), Berdahl (2006:171), and Stensaker and Harvey (2011:1) regarding the importance of a balance between lecturer academic freedom and the requirement of responsiveness to societal needs (§5.3.1).

Although a number of the SA lecturers demonstrated awareness of the influence of external sources on certain aspects of their teaching-related accountability, they also noted an absence in national regulation of the expected standards for teaching quality. In contrast, all except one of the Australian participants were aware that all institutional policies and rules that regulated and governed their teaching-related work, originated from national legislative sources. A few specifically referred to the TEQSA Act (§4.3.3.3) as determining the expected standards for teaching quality and programme development at university level. There did not seem to be a qualm with regards to the importance of such national standards to regulate teaching-related accountability at institutional level, providing motivation for similar standards at national level in the SA HE context.

### 8.3.3.3 Category 3.3: Intrinsic values and ethical codes

The final category identified by a number of the participants as originating source of accountability in teaching-related work is closely related to self and ethical accountability as discussed in section 5.4.4. As also noted in that section, the internal ethical code of an employee as originating source of accountability is closely related to “*the measure of accountability that an employee feels at work*”, thus his or her felt accountability (Hall *et al.*, 2007:408).

A number of the SA lecturers clearly felt that their intrinsic values and ethical behavioural codes were primary sources of accountability in their teaching-related work. One of the participants called it “*an internal thing, a moral commitment that I made my own when I took this job*”, while another noted that in her teaching-related work, “*I’m driven by my own conscience, by my values*”. Also, in the focus group discussion, a number of the participants were adamant that “*if a lecturer doesn’t take moral responsibility for teaching outputs, then there’s something wrong*” since their main responsibility was “*to educate students, and therefore it’s unethical to neglect that responsibility.*” In answer to the question of accountability origin, another focus group participant stated that “*it’s internally determined – part of your ‘lecturer DNA’ so to speak.*” Similar to the importance of the self as accounter as evident from the data analysis and interpretation of category 2.1 of theme two (§8.3.2.1), the self was also prominent as originating source of accountability. Romzek’s (2000:26) definition of a professional accountability system whereby employees are afforded autonomy to base decisions on “*internalised norms of appropriate practice*”, as already noted in theme two, is again underscored as the participants’ preferred professional accountability system in the HE environment.

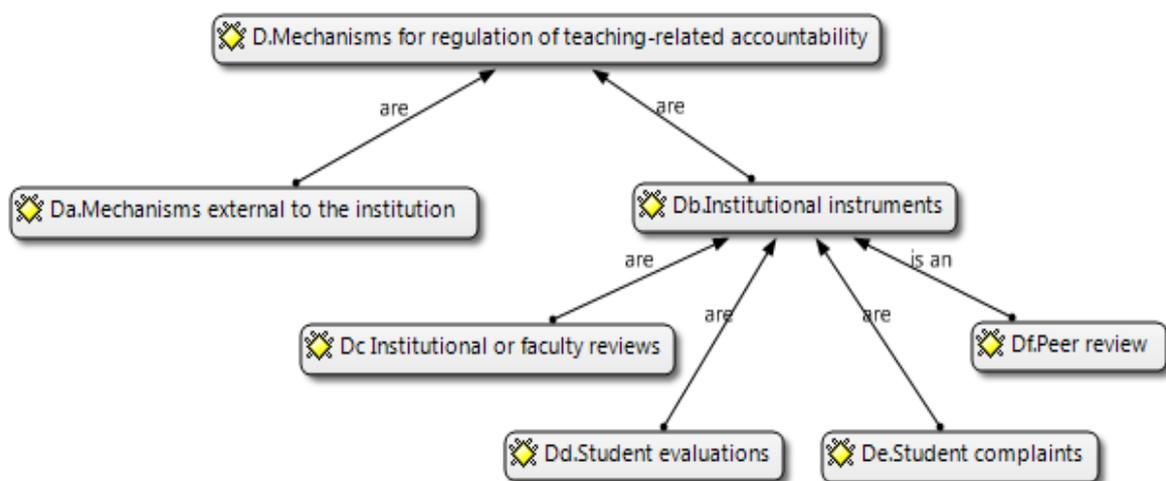
In conclusion, a clear indication of the prominence of the different originating legal sources of lecturer accountability in their teaching-related work is essential to inform the juridical foundation of lecturer accountability in the SA context. Apart from the lecturer’s internal ethical code and values, the notion of a nationally binding legal document as an accountability source should enhance and regulate the measure of felt accountability of lecturers.

### 8.3.4 Theme four: the regulation of lecturer teaching-related accountability

As fundamental to general labour principles encapsulated in the constitutional right to fair labour practices (§2.4.5) and labour legislation (§3.33.3), the review of literature on the general elements of accountability indicated the importance that, in the event of a lack of or poor evidence of accountability, consequences or penalties should be clearly recognisable

(§5.2.3). The data analysis and findings for clear accountability consequences had already been presented in section 8.3.2.3, where the participating lecturers maintained the importance of transparent penalties for not performing expected duties as one of the essential characteristics to enhance their teaching-related accountability (theme 2, category 2.3). What has been lacking in the discussion thus far, is the question as to which mechanisms within the HE environment could be activated to regulate the lecturer’s teaching-related accountability or enforce the penalties for a breach of accountability – a separate theme that emerged from the data related to the issue of clear consequences as illustrated in Figure 8.5.

It should be noted, however, that a few of the participants observed that formal accountability mechanisms would not be necessary within an institution that equated teaching excellence with research output. Were such a culture prevalent, lecturers would value teaching-related accountability as seriously as the requirements for research (§6.2.2). It is fair to deduce that in the face of poor protection against work overload and diverse responsibilities, lecturers may choose to focus on the quality of their research outputs rather than the quality of their teaching, thus necessitating the institution to use specific mechanisms to measure accountability for teaching-related responsibilities.



**Figure 8.5: Network for theme 4: Mechanisms for the regulation of lecturer teaching-related accountability**

#### 8.3.4.1 Category 4.1: Mechanisms external to the institution

As illustrated in Figure 8.5, participating lecturers identified five different mechanisms that are used to regulate their accountability in their teaching-related work. Only one of the accountability mechanisms that were identified by a small number of the SA participants is external to the institution, namely national audits. Some of these participants noted that the

Council on Higher Education (CHE) played a role in regulating the quality of teaching by setting standards for institutional audits (§5.3.2), yet were cynical whether this mechanism actually led to the improvement of teaching quality. External accountability mechanisms were not viewed as a primary concern in the determination of lecturer accountability, thus in keeping with the notion that lecturers seldom take ownership of the results of external accountability mechanisms that they feel are far removed from their teaching-related work (§5.3.1). The vast majority of participants viewed the mechanisms for the regulation of their teaching-related accountability as institution-bound. These mechanisms will be discussed in the following sections.

#### **8.3.4.2 Category 4.2: Institutional instruments**

Institutional instruments identified by the participating lecturers as accountability mechanisms that influence and regulate their teaching-related accountability are institutional programme reviews, faculty inspections, student evaluations and complaints, and the peer review of their teaching practices.

##### **8.3.4.2.1 Sub-category: Institutional or Faculty reviews**

The first of these institutional mechanisms identified by a few of the SA participants are institutional quality instruments such as internal programme reviews and faculty inspections. A number of the Australian participants added employer surveys of graduate employability. Some SA participants also mentioned that their institutional academic development and support units do spot reviews on teaching quality issues on request from faculty deans. The results of such reviews are used to devise action plans for curriculum revision or for the professional development of the concerned lecturer. One of the SA lecturers noted that *“sometimes these reviews have a negative connotation, you know, like a dean will request a review if he thinks your teaching is bad or something, so it’s not always viewed in a positive light”* while another reiterated by saying that *“our teaching, our modules, our programmes, our study guides, everything gets scrutinised. It’s cumbersome to say the least.”* Another SA participant went so far as to say that *“such scrutiny makes most academics angry.”* These comments are indicative of the weariness that lecturers experience because of continuous institutional regulation and the possible distrust in their capabilities that negatively impact their perceived security, an issue that receives attention in section 8.4.3.

Since none of the participants mentioned mechanisms for the regulation of their behaviour, while lecturer conduct was identified as part of their teaching-related accountability (theme 1, category 1.2), the question of behavioural regulation was put to the SA HR manager. The HR manager explained that the institution’s disciplinary code and formal code of conduct are the main regulatory mechanisms at the disposal of institutional management, thus validating

the findings from the analysis of institutional sources of lecturer accountability (§3.4.2 & §3.4.4). He emphasised the importance of following correct procedures to determine the validity of a complaint, and offering the accused a fair hearing and the opportunity to provide contrary evidence. This is in keeping with the requirements of just administrative action, especially the *audi alteram partem principle*, as discussed in sections 1.4.3 and 2.4.6. In light of it being directly related to a constitutional provision and fundamental right, it thus seems that the disciplinary code and the code of conduct of an institution serve both a regulatory and a protective function, essential to accountability regulation and rights protection of lecturers.

#### **8.3.4.2.2 Sub-category: Student evaluations**

Evident from related literature on the assessment of the quality of the lecturer's work (§6.3.5), it is a global practice to gage the quality of lecturers' teaching practices through student evaluations (Akerlind, 2007:30; Barrie *et al.*, 2005:645; Berk, 2005:51; Horspool & Lange, 2011:74; Weinberg *et al.*, 2009:227). In keeping with this finding, the second institutional teaching-related accountability mechanism as identified by most of the SA and Australian participants was student evaluations of teaching effectiveness. Evident from almost all of the SA participant responses in this regard was a concern regarding the true value of these evaluations. A disheartened participant explained: "*even bad lecturers get good evaluations if their assessments are easy or if the students find them really funny and entertaining.*" Another lecturer pointed out that student evaluations can only be valuable if the evaluation criteria are "*developed by professionals and the items carefully selected to ensure that what is measured, is actually aligned to the purpose of each section of the questionnaire. Students must evaluate how effectively you teach, not how popular you are or how easy the subject is.*" This perception confirms the views of scholars such as Morley (2003:138) and Weinberg *et al.* (2009:254) with regards to the questionable credibility of such evaluations (§6.3.5). Some of the SA participants were also doubtful regarding the use of the results of the student evaluations since they never received any feedback thereon.

Some of the Australian participants stated that they trusted the results of student evaluations that were done with standardised and externally moderated instruments, since they perceive the instruments to be "*scientifically developed*" and "*not possible to manipulate.*" In addition, some of the Australian participants noted that the results of the student evaluations are used to inform the development requirements of lecturers. It would thus be to the benefit of the SA lecturers if the results of scientifically standardised student evaluation instruments could be used in a controlled feedback loop to inform teaching practices that are in need of development with a view to enhance student learning.

#### **8.3.4.2.3 Sub-category: Student complaints**

The vast majority of SA participants confirmed the prominence of student complaints as a mechanism to hold lecturers to account in their teaching-related work. This perception is in keeping with the findings from theme 1, category 1.3 (§8.3.1.2.1) where SA participants' agreed that they were responsible for customer care and the protection of student rights. Student complaints as accountability mechanism or benchmark for the effectiveness or quality of a lecturer's teaching-related responsibilities were not acknowledged by scholars during the literature overview on accountability or the teaching-related responsibilities of the HE lecturer. It would thus seem that student complaints as prominent accountability mechanism is unique to the SA HE environment, probably indicative of the rights culture in this context. One disillusioned focus group participant stated that "*if a student's complaint will require of the university to bend the rules, then usually the student is accommodated. So we are constantly reminded to beware not to infringe on student rights and to take their complaints to heart.*"

In contrast to the SA lecturers, only a few of the Australian participants noted the importance of follow-up on student complaints, not necessarily in terms of an accountability mechanism, but rather to ensure that unfair treatment and biases were ruled out. One participant neatly summarised the Australian participants' perspective on this issue: "*students being students will complain, and I actually don't like unsatisfied students. I want them to succeed. So I'll follow up to see if their complaints are credible. It doesn't mean that the student is always right, but it does mean that we have to take care not to infringe on their rights.*"

From the above it is obvious that an overt focus on student complaints as accountability mechanism will infringe on the perceived security of the SA HE lecturer and that clear guidelines as to the lecturer's accountability in this regard are necessary.

#### **8.3.4.2.4 Sub-category: Peer review of teaching**

The fourth and final institutional accountability mechanism that was identified by a number of the SA and Australian participants was peer review of teaching practices. A few of the participants referred to the necessity of institutional moderation practices as a form of internal and external peer review of assessment instruments to standardise the quality thereof. Others mentioned peers as observers in their classes with a view to make recommendations for improvement of teaching practices.

Evident from the responses was that lecturers generally accepted peer review as an appropriate mechanism to determine their teaching effectiveness, as illustrated by the following participant response: "*review of my teaching by peers whom I trust is valuable to*

*improve my teaching, so I don't actually mind that. I think peer review is also more objective than student evaluations in that most of my colleagues understand what effective teaching entails."* Moreover, several of the participants acknowledged that they would readily accept criticism from colleagues known for their teaching expertise while also sharing similar discipline contexts, and that they would use positive criticism in a supportive atmosphere as indicative of their need for professional teaching development. One of the participants noted in this regard that peer review of teaching practices made sense since "*colleagues, those working in the same discipline, are the best judges of my worth as a lecturer. They are subject experts like I am, and they know practice, and what I should teach in order for my students to be prepared for the world out there.*" This confirms the views of scholars like Akerlind (2005:4), Erkkila (2007:8) and Huisman and Currie (2004:530) who advocate peer review for enhancement of professional accountability in teaching practices (§5.4.3). Professional accountability as a preferred accountability system in the HE environment is also relevant to the discussion on the findings from the analysis of lecturer perceptions of their professional status (§8.4.3.4).

The mechanism of peer review for lecturer accountability regulation in teaching practices is thus favoured to inform the improved juridical foundation for accountability since lecturers feel psychologically more secure in the knowledge that their peers can assess the standards of their performance appropriately. As noted by a few of the participants though, it is of the essence that rigorous peer review of teaching-related work occurs via standardised guidelines to ensure fairness in review practices. It thus seems that although peers are generally trusted to be the "*best judges*" of each other's work, standardisation is still a requirement to enhance the lecturer's security in accountability regulation.

### **8.3.5 Summary of findings for the phenomenon of lecturer accountability**

The preceding sections provided the findings of the views and opinions of the sample of SA and Australian participants of their teaching-related accountability. Four themes were analysed and interpreted to provide a picture of lecturers' perceptions of what their teaching-related accountability entails, what they perceive as the origin of such accountability, and the mechanisms that they view as pertinent to the regulation of their accountability. The analysis substantiated many of the deductions that emanated from the analysis of national and institutional legal determinants of lecturer accountability, as well as from the literature overview of issues pertinent to accountability and the work of lecturers in their teaching context.

In terms of the comparative component of the analysis, it was evident that there were many similarities between the perspectives of the Australian and SA participants, especially in

terms of the diversity of their teaching-related responsibilities and the essential elements that characterise accountability in their labour environment. Noteworthy is that the perspectives of the Australian participants differed from those of their SA colleagues concerning the prominence of post level as both an originating source and a determinant of lecturer accountability for teaching-related work, which could be ascribed to the national legislative guidelines and regulation thereof in the Australian HE environment. Furthermore, the Australian participants demonstrated greater awareness of their national and institutional policy frameworks as basis for their accountability, but also for the corresponding accountability of their students for their own learning success. Another aspect that was significantly different was the Australian participants' lesser focus on lecturer accountability for customer care and the balance in their perceptions that students and lecturers have equal rights and thus enjoy equal protection. Since the SA constitutional rights framework offers similar protection to SA lecturers, it confirms that the SA participants are not sufficiently knowledgeable on their constitutional rights.

Although all of the participants identified certain legal sources as pertinent to the origin and regulation of their accountability, the majority of the SA participants demonstrated a noticeable lack of knowledge and discernment with regards to the legal foundation of accountability and its regulation within their labour context. Moreover, there is an absence of clear institutional guidelines in terms of lecturer teaching-related accountability, thereby negatively influencing their security, to be further explored in the analysis of themes five to seven. This lacuna is thus addressed in the guidelines for an improved juridical foundation for lecturer accountability (§9.3).

The results of the analysis of the first four themes provide the answer to the first part of research sub-question 4, namely how lecturers perceive their accountability in their teaching-related work. The findings are responsible for an all-encompassing delineation of what teaching-related accountability entails from a lecturer's perspective:

The teaching-related accountability of the HE lecturer, originating from intrinsic values and legal sources internal and external to the institution, regulated via national mechanisms, institutional instruments, student evaluations and complaints, but preferably by peer review, must encompass transparent answerability of the lecturer towards different stakeholders for:

- a) agreed task requirements and performance standards in pre-teaching, teaching, and post-teaching responsibilities;
- b) expected lecturer conduct; and
- c) student success.

In addition, accountability consequences and appropriate disciplinary penalties must be transparent and should be consistently enforced in cases where accountability is neglected or expected conduct is contravened.

This comprehensive definition of the teaching-related accountability of the lecturer finds application in the guidelines to improve the existing juridical foundation for accountability that are presented in section 9.3. The subsequent sections provide the qualitative analysis and interpretation of lecturers' perceptions of their security in view of their teaching-related accountability.

#### **8.4 THE SECURITY OF THE HIGHER EDUCATION LECTURER**

The analysis of SA HE-specific legislation (§3.2) was focused specifically on finding national HE legislation with provisions similar to those promulgated to regulate and protect the conduct and minimum conditions of employment of educators appointed in public schools, namely the SACE Act (31/2000 and the Employment of Educators Act (76/1998) (§1.4.2). However, this analysis yielded no results regarding legislation that regulates the accountability, expected conduct, or security of HE lecturers. Moreover, although it had been established that SA lecturers are privy to the same fundamental and employment rights as any other SA citizen, inclusive of the rights to fair labour practices and a safe and healthy work environment (§3.3.6), the literature overview on the nature of the lecturer's work (§6.2.2) indicated that lecturers are often the victims of unfair labour practices such as work overload and disrespect for their professional identity that impact negatively on their security in the workplace (§3.2.7).

These findings from the analysis of the literature led to the inclusion of three questions in the interview schedule that were used as prompts to develop understanding of what lecturers deemed to be their rights in the HE environment, how they felt about the protection of those rights, and how they defined their security in view of the diverse nature of their accountability. The three themes that emerged from the data analysis and interpretation are significant since their integration has provided a comprehensive definition of lecturer security that could not be found during the analysis of legal sources or the elaborate literature overview of this thesis. This contributes substantially to the existing body of knowledge in the field of HE.

For purposes of this empirical study, the findings provide an answer to the second part of research sub-question 4, namely what lecturers perceive to be the nature of their security in light of their perceived teaching-related accountability. If the juridical foundation for lecturer accountability is to have a significant positive influence on lecturer security, it is essential that

lecturer rights should also be delineated in order to protect lecturers within their labour environment.

#### **8.4.1 Theme five: the legal security of the lecturer**

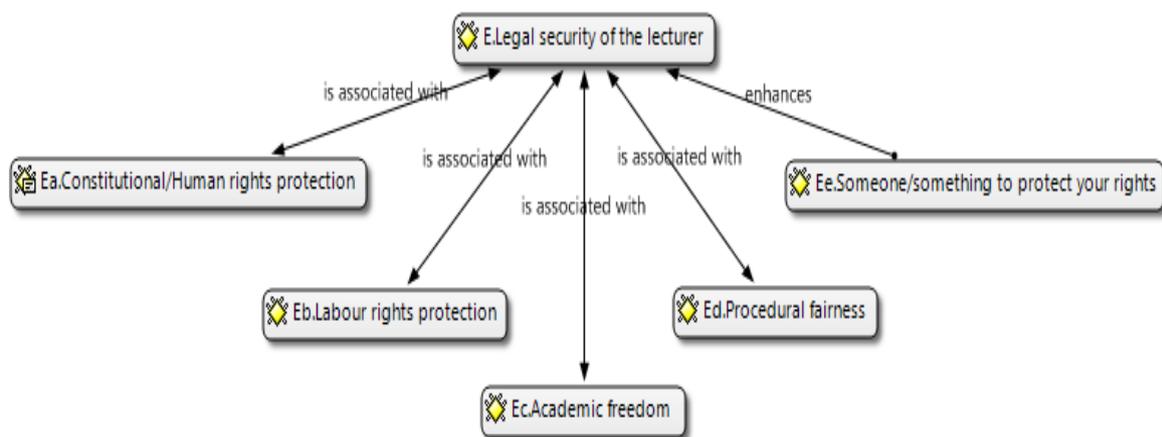
The first theme that emerged from the generated data on the security of the lecturer pertained to lecturer perceptions of the nature of their legal security. Legal security in this context refers to the rights protection that lecturers experience as afforded by the stipulations of national and institutional legal sources (§2.4, §2.5, §3.3 & §3.4). Significantly, the Australian participants had very little to say about the issue of rights protection in their work environment. One Australian lecturer noted that most Australian academics would be keen to have a position at their institution, so *“having issues with regards to the protection of our rights at this university... that is highly unlikely.”* Another pointed out that the Australian Constitution does not contain a Bill of Rights like South Africa’s Constitution does, that they *“don’t have a conscious human rights discourse like there may be in other parts of the world, motivating this as “a product of a relatively stable society.”* The only category associated with the legal security of the lecturer that elicited some response from the Australian participants was the issue of academic freedom, as later clarified.

Most of the SA participants agreed that they experienced an absence of lecturer-specific rights, an issue that definitely threatened their legal security. The first question in the interview schedule that pertained to lecturer rights in their work environment simply asked what they perceived their rights to be. Many of the SA participants were somewhat dumbfounded by this question, responding with statements like *“does a lecturer have any rights? That’s news to me,”* or *“I’m not sure at all about my rights.”* A number of them admitted to having a lot of privileges, and many obligations, but not necessarily specific rights that they felt entitled to. One of the participants grudgingly noted that *“we don’t have a right to anything. Not even a right to parking.”*

There was a clear indication that SA lecturers lacked an awareness of any legal framework within which they could position themselves in terms of their legal security. The lecturers teaching in the field of law, though cognisant of the fact that they had certain rights that are protected by law, mostly held similar views to the following participant response: *“People working in law, and especially lecturers, are very hesitant to use their legal rights – they will not often insist on the protection of their rights. Because... you are then seen as aggressive, not a team player... We know exactly how long the legal process takes and what it entails and how such a process will eat into your daily life and time, so we often just let it go without making a fuss. I will only look to the law for protection if the issue is really worth fighting for.”* The above perceptions are clearly indicative of the need for a strong delineation of the legal

rights that lecturers are entitled to in their employment environment. It is also necessary to pilot a focused awareness campaign at institutional level to familiarise lecturers with their rights, and with their right to insist on those rights, as well as the avenues they have for protection when they experience an infringement on their rights. In addition, the governance and management structures of universities should take note of their constitutional obligation to recognise and protect these rights (§2.1), an obligation which, if taken seriously, will make the enforcement of these rights unnecessary.

After further probing into the question of lecturer rights the subsequent categories were identified as having an influence on lecturer legal security, namely constitutional and labour rights protection, academic freedom, procedural fairness and an appointed protector of lecturer rights. Theme five with its categories is illustrated in Figure 8.6 and each of these categories is analysed and discussed in the subsequent sections.



**Figure 8.6: Network for theme 5: The legal security of the lecturer**

#### **8.4.1.1 Category 5.1: Constitutional or human rights protection**

The first category that was associated with the legal security of the SA lecturer was constitutional or human rights protection. Only a small number of the SA participants, and then mostly those in the fields of law and education law, made mention of the rights specified in the SA Constitution as relevant to legal protection in their labour environment, and then specifically the rights to be treated with human dignity and respect (§2.4.2), to work in a safe and healthy environment (§2.4.3) and not to be discriminated against for any reason (§2.4.1). Notably a safe and healthy work environment was not something taken for granted by the SA participants since a few of them expressed relief at being able to say that they felt safe at work “*despite all the unrest and crime associated with the South African context.*”

Some of the responses clearly indicated participants' disenchantment with the protection of their constitutional rights. One female participant told of an incident where a "*student threatened to burn down my house! How safe should I feel then? People thought that funny... yet if I'd threatened the student with the same claim, can you think of the consequences? I would've been subjected to a disciplinary hearing, and the media would've had a field day.*" Another reasoned that "*I've come to realize that students' voices and their fundamental rights are taken much more seriously than those of lecturers..... and lecturers are many times at the receiving end.*" These perceptions are clear indications that constitutional and human rights protection should be taken more seriously by institutional management if they are to enhance lecturer security. Moreover, the limited number of participant responses that identified constitutional or human rights protection as foundational to their legal security, while the protection of student rights was a primary component identified for lecturer accountability (theme one, category 1.2 in §8.3.1.2.1), is indicative of the necessity to make lecturers aware that they are entitled to parallel constitutional and human rights and privileges as their students, and this should positively impact their legal security.

In the Australian context one of the participants provided a simple way to achieve this end, something that is proposed as part of the guidelines to improve the existing juridical foundation for lecturer accountability to enhance security (§9.3). She explained that she was aware of her rights in terms of health, safety and support, but also the rights of students in how they are to be treated, because of "*a thorough induction programme where labour rights and lecturer obligations towards students were covered, and after the induction we had to complete an online module on health and safety and all related issues.*" As noted by another of the Australian participants, lecturers and students have similar fundamental rights and students should not receive preferential treatment in this regard. If lecturer security is to be enhanced, it is of vital importance that SA lecturers be made aware of the constitutional rights framework that not only regulates their conduct towards HE stakeholders, but also affords them the same protection as to any other SA employee.

#### **8.4.1.2 Category 5.2: Labour rights protection**

Participating lecturers also identified the protection of their labour rights and their minimum conditions of employment as related to their legal security. A number of them mentioned that their employment contracts, in which their minimum employment conditions were stipulated, should adhere to the stipulations of national labour legislation that pertains to all employees (§3.3). With the exception of a few of the lecturers who teach in the field of law, such awareness by no means translated into certain knowledge of the content or application of

labour legislation in their employment environment. Only two labour conditions were highlighted by most of the participants, namely leave and working hours. In terms of leave, quite a number of them admitted to having an unusual number of days for leave, yet ironically, also said that they couldn't use those days due to high workload. One SA participant sarcastically remarked that lecturers have "*lots more leave than the rest of the world out there, but we work a lot more too, and we often put in leave to catch up on the work that falls behind.*" In terms of working hours, many of the lecturers mentioned that due to high workload and diverse responsibilities, their working hours often times "*far exceed 50 per week*" and that the stipulated 40-hour work week did not apply to their profession. The issue of workload is further explored as part of the environmental security of the lecturer (§8.4.2)

One participant pointed out that "*the Labour Relations Act states minimum conditions for all South African employees, not particularly for lecturers working in the Higher Education environment. Yet the type of work we do is kind of unique, so we could actually benefit from more specific minimum conditions.*" This thought is in line with provisions in Australian national legislation, namely the Modern Award for academic staff, wherein the minimum employment conditions of the Fair Work Act are particularised for employees in the HE sector according to different post levels (§4.4.1). An example of such national legislation in the SA environment is the Employment of Educators Act relating to school teachers, that stipulates specific service conditions for school educators, while also defining "*misconduct and incapacity, thereby ensuring that such matters can be dealt with in a legal context*" (§1.4.2). One would assume that HE-specific legislation to provide for the employment conditions particular to the SA lecturer might therefore be equally beneficial to the enhancement of HE lecturer security in SA.

#### **8.4.1.3 Category 5.3: Academic freedom**

Although section 16(d) of the SA Constitution mentions academic freedom as a constitutional right (§2.4.4), academic freedom was identified as a separate category pertinent to the legal security of the lecturer, most probably due to bureaucratic endeavours to curtail such freedom by means of external assessments such as national audits. Participant perceptions of the protection of their academic freedom varied to a great degree, thus corroborating the disparate opinions of scholars who have published on this issue (§2.4.4 & §2.5).

A number of the SA participants noted that stricter governmental regulation of qualification design and expected standardised exit level outcomes for graduates restricted their academic freedom and encroached on their professional expertise, yet they still maintained that they had freedom in terms of the content and teaching methods implemented to realise learning outcomes. Others noted that their environment was over-regulated and that they did

not experience a great measure of academic freedom in any part of their work. Some of the lecturers experienced such restrictions as distrust in their professional judgement, an issue also prevalent in the literature on academic freedom and autonomy as reported in sections 2.4.4 and 6.2.3.

Participants who taught in professional degrees added that even the content of their teaching was dictated by professional bodies, thus leaving them with little room to be creative in their teaching practices. Since academic freedom is, as explained in section 2.4.4, “*a precondition for critical, experimental and creative thought*”, the restriction thereof as experienced by these lecturers points to an infringement on this constitutional right. One SA participant had an interesting perception, saying that “*some of us also want the freedom not to publish. We only want to teach. Why can that not be part of our academic freedom?*” Another lecturer interpreted academic freedom as having flexible working hours so that she could sometimes work from home. These responses point to confusion in terms of what academic freedom entails, and it would thus be beneficial to all involved stakeholders if the nature of academic freedom as relevant to the SA HE context is more clearly defined in order to eliminate external and internal threats to this constitutional right.

Even though academic freedom is not a constitutional right in Australia, the Australian participants who commented on their right to academic freedom mostly held similar views to those of their SA colleagues. A few noted their freedom in “*how we teach, but not what we teach*” and one participant also alluded to the fact that there was “*not much freedom to be creative or to focus on what I want to do.*” In stark contrast, another stated unequivocally that “*in our environment the notion of academic freedom and autonomy is still very powerful. I think that if my freedom in many respects would start being impinged upon, then this job would stop being the appealing job that it is.*” The strong opinions that the participants voiced concerning their right to academic freedom underscores its importance to lecturer legal security and necessitate that it should be more clearly defined and protected, if it was not to be deemed a threat to lecturer security in the workplace.

#### **8.4.1.4 Category 5.4: Procedural fairness**

A few of the participating SA lecturers referred to procedural fairness in disciplinary matters and disputes as an important element of their legal security. They argued that procedural fairness, although only one of the elements of the constitutional right to just administrative action (§2.4.6), was lacking at their institutions, especially in instances where student complaints were handled. One participant said “*I don’t think the lecturer’s voice is heard, I don’t think we ever get to tell our side of a story when there are complaints*” while another reiterated this perception by stating that “*in order for me to feel more secure the institution*

*must protect me when there is a problem with student complaints. They should be willing to also hear my side and sometimes take my side... I think that institutions are afraid of student revolts and so on and they protect them so that it doesn't happen and so that they can stay out of the media.*" Lecturer's views on this issue relate directly to their strong opinions regarding the prominence of customer care and student rights protection as part of their teaching-related accountability (theme 1, category 1.3), and the opinion that student complaints are an accountability mechanism (theme 4, category 4.4).

These perceptions were, however, in direct opposition to the view taken by the SA HR manager when asked how the institution protected a lecturer's right to just administrative action: *"The chairperson of the Human Rights Committee is a practising attorney, thus someone who knows the law, and is therefore also cognisant of the types of sanctions that are appropriate should a case be serious enough to be advised to go to the disciplinary route or to arbitration. In all instances we recognise that the accused has the right to a fair hearing and to fair procedures leading up to it, and during the hearing. He will also always get the chance to state his side of the story."* He added that a lecturer could also appeal a committee decision, and that the university had a revision procedure in place where *"an appointed official works through all the evidence in a scrupulous manner to see if all was done in a fair and transparent manner, focusing on the possibility of either procedural or substantive unfairness."*

It is obvious from these responses that there seems to be a discrepancy in the perceptions that lecturers have of administrative action and the views held by the institution. It may be that procedural fairness is more of an issue at the School or Departmental level, and that proper procedures and administrative justice are only secured when disciplinary matters are escalated to the institutional level. The provisions of the PAJA (§2.4.6) should be particularised for the HE environment to enhance lecturer legal security and such particularisation should emphasise implementation at all levels where disciplinary matters are dealt with.

#### **8.4.1.5 Category 5.5: Protection of lecturer rights**

The final question in the interview schedule asked of lecturers to explain who or what protected their employment rights and how this influenced their perceived security. The final category of this theme thus reflects their perceptions of pertinent legal documents, or of individuals or groups, which protected their rights and enhanced their security in their work environment.

A small number of SA lecturers, mostly those teaching in Law, referred to the stipulations of the Constitution and national labour legislation as protective measures (§2.5 & §3.3.6), even

in disputes regarding unfair provisions in the content of an employment contract (§3.4.3) A few others acknowledged the role that institutional policies played in protecting their rights in terms of behavioural misconduct such as sexual harassment and discrimination based on race or gender, one noting that “*policy regulation cuts both ways – as accountability tool but also as protective instrument*” (§3.4.2).

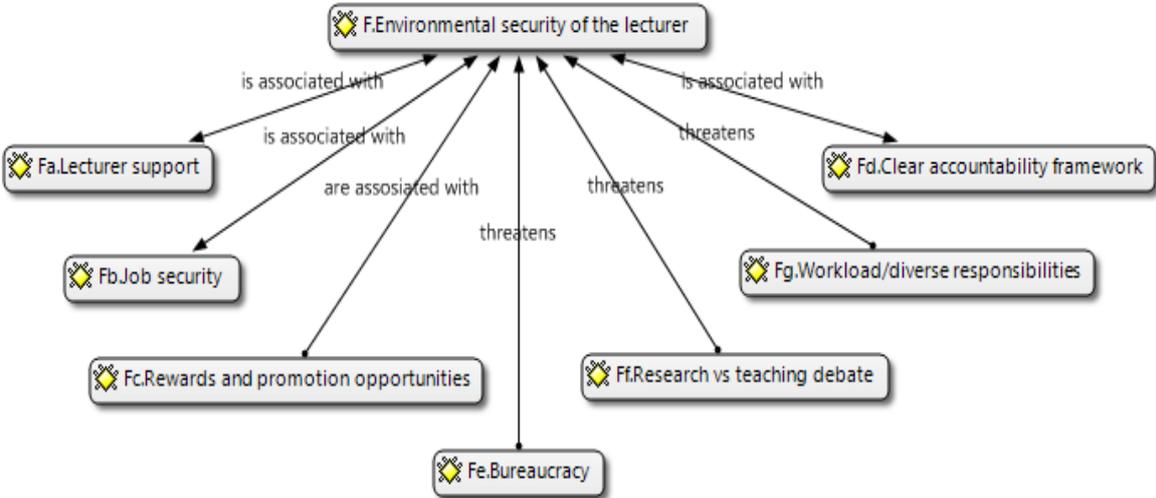
In terms of union representation, both the Australian and the SA participants seemed disillusioned with the nature and measure of protection that unions provide, one Australian lecturer explaining that lecturers will often choose not to join a union “*because they believe that the union aligns itself to a particular political party*” and the lecturer does not want to “*make contributions to any political party just to secure my well-being at work.*” One SA participant flippantly noted that “*the union to which we belong can’t even negotiate a proper raise for us with our university management, never mind protecting me when I’m really in trouble.*” There also seemed to be consensus that in disputes between colleagues or between a lecturer and a student, university management would always protect the name of the institution by either referring a dispute to an external legal entity, or taking the side of the student as the university client. They obviously felt that their institutions did not necessarily take the best interests of the lecturer to heart. Therefore many of the participants said that they would definitely seek private legal representation should they ever become involved in a disciplinary matter. This is indicative of their perceptions that they cannot trust their own institutions to protect their rights, an issue that must by necessity influence their security in the workplace very negatively. The issue of trust is further explored in section 8.4.3 as it is pertinent to the psychological security of the lecturer.

A few of the SA lecturers commented on collegial protection from within their “*communities of practice*” (§5.4.3), and a few others mentioned institutional committees that specifically investigated claims of human rights infringements. But by far the most prevalent opinion amongst both SA and Australian lecturers, was the role of the line manager as the person most likely to protect the lecturer when disputes arose or when rights infringement was suspected. One focus group participant poignantly pointed out that this being the case, unfortunately that also meant that when a lecturer had a bad relationship with his or her line manager, that lecturer might find him or herself “*in more trouble than they bargained for when the paw-paw hits the fan.*” Since lecturers perceived institutional protective measures to be biased in favour of the student or the institution’s reputation, it should thus be to the benefit of the lecturer if the responsibilities of the line manager in the role of rights protector were clearly defined. The line manager would also benefit from appropriate training for this role to ensure that the security of the lecturer became a focus point in the managerial process. Lecturers will experience improved legal security in a work environment where

adequate awareness and protection of applicable constitutional and labour rights prevail, inclusive of the right to just administrative action and a clear definition and protection of academic freedom, given that the role of line managers as rights protectors is clearly delineated.

**8.4.2 Theme six: the environmental security of the lecturer**

The second theme for lecturer security that emerged from coding and analysis of the data is so-called environmental security. Environmental security in this context describes the elements unique to the work environment of the lecturer that participants associated with how secure they felt in their employment relationship, but also the type and nature of support that they received to enable them to fulfil their teaching-related responsibilities effectively. The categories for this particular theme split into two complex relational groupings. The first grouping, seemingly more practicable for the enhancement of environmental security, included lecturer support, job security (§6.2.2), rewards and promotion opportunities (§6.2.2), and a clear accountability framework. The second grouping consisting of bureaucracy (§5.3.1), the research vs. teaching debate (§6.2.3), and lecturer workload (§6.2.2) emerged as factors that threaten the lecturer’s environmental security. The network for theme 6 is illustrated in Figure 8.7 and each of the categories is analysed and discussed in the subsequent sections.



**Figure 8.7: Network for theme 6: The environmental security of the lecturer**

**8.4.2.1 Category 6.1: Lecturer support**

The first element of lecturer support that many of the participants associated with their environmental security was the provision of appropriate and adequate resources by their institutions to enable them to teach effectively. The results from the analysis of the general

content of a sample of SA academic staff employment contracts (Table 3.3) indicated that academic institutions normally include the provision of resources as part of their obligation towards the lecturer. This is in keeping with the legal principles of the law of contract whereby the employer's accountability and legal obligations are also regulated via the contract of employment (§1.4.4). Yet a number of the SA participants mentioned that resources such as office space, lecture halls, marking assistants, and available technologies were less than satisfactory and thus negatively impacted their ability to teach effectively.

One of the SA participants stated that *“financial constraints have a huge impact on what you can and cannot do in your lecturing environment. If you don't have the infrastructure or resources to do certain things, you just can't take responsibility for the fact that your classroom practices are sub-standard.”* Another added that *“it seems that there are always budget cuts, and less and less money for support. And more and more calls for accountability even without the extra support.”* One of the focus group participants became quite agitated during the discussion on this issue, arguing that *“everyone goes on about student success and the student learning experience and how lecturers are responsible for that, and yet our resources for teaching, like marking assistants, are dwindling because of supposed lack of funds. We have to widen access, but we aren't provided with adequate resources to effectively teach and assess all the students that we now need to allow into the system.”* It is quite obvious from these perceptions that the type of support and resources that are within the budget and ability of an institution to provide should thus be a determinant of the teaching-related responsibilities that the lecturer is required to account for. Moreover, this issue should be adequately addressed in either the employment contract or the annual task agreement or job appraisal of the lecturer so as to ensure that expectations regarding teaching outcomes are aligned to institutional support and provision of resources.

Some of the SA and Australian participants remarked on the importance of collegial support as condition for environmental security (§5.4.3), and the maintenance of good interpersonal relationships at work, alluding to the importance of effective conflict handling by institutional and faculty management. One SA participant remarked that *“continuous transparent and open communication and engagement from middle and top management is imperative for collegiality, and lecturers must likewise be encouraged and motivated to have their voices heard.”* Collegiality was thus recognised as both an accountability element (§0) and a requirement for environmental security in the work of the lecturer. What collegiality and good interpersonal relationships entail though, are not necessarily clear, as is evident from one frustrated lecturer who remarked on *“some of the interesting ways that collegiality would be measured, like putting on morning tea, or always leaving your door open so that anyone can “fall in” for a chat.... collegiality, I'm not so sure that lecturers share the sentiment of*

*management in terms of what that means. Collegiality is about support, and building relationships, not putting on tea and providing biscuits.”* Clear expectations in terms of collegial support and interpersonal relationships to the benefit of lecturers, management and students alike, should form part of the lecturers code of professional conduct.

All the Australian participants indicated their satisfaction with the adequacy of resources and support at their disposal for doing their work effectively. They mentioned tutors who assist with marking of assessments and so-called “*professional staff*” who assist with “*course outlines and curriculum maps to see that there is alignment from learning outcomes through to assessment.*” In addition, many of the different schools in their faculties have instructional designers who act as “*teaching resources*” and review their classes and curricula to determine the effectiveness thereof. The support provided to the Australian participants at their institution was well summarised by the following lecturer response: lecturers “*are empowered to work effectively in teams to reach necessary goals, the job demands do not exceed my personal or professional capacities and if I ever feel that I lack in some area, I only need to speak up and opportunities will be provided for me to grow and develop.*” Development opportunities were highlighted as a support mechanism by most of the Australian participants. It is obvious from these responses that the Australian university selected for this particular study has the financial means to provide in all the necessary resources and support mechanisms any lecturer would wish to access to fulfil his or her required responsibilities. This is not, though, an indication that such is the case at all Australian institutions.

#### **8.4.2.2 Category 6.2: Job security**

Job security was the second category that emerged for its association with lecturer environmental security. In the SA context, job security is equated to a permanent position as proven by the following responses: “*my permanent position means that as long as I don’t commit misconduct, the university cannot fire me*”; and “*this was a permanent job, job security for me, a salary at the end of every month... Immediately, once you have a permanent job you feel safe.*” This assumption is not true, however, since the legal foundation for academic employment is situated in the provisions of national labour legislation (§3.3) and the content of the employment contract (§3.4.3) that is founded on the principles of the law of contract (§1.4.3). A lecturer in breach of the legal obligations that arise from his or her employment contract (§1.4.3), even if such a contract is of a permanent nature, may therefore face dismissal. Yet the above responses are in line with the general definition of job security as noted in section 1.2.2, namely “*continuity of gainful employment and a stable income.*”

Another participant was a bit more sceptical on the issue of job security, saying that “*in South Africa at the moment it is a privilege to actually have a job. So you will be very careful not to do anything that will put that in jeopardy.*” Other responses in this regard indicated that the SA lecturers regarded job security as important to their overall well-being and although they acknowledged that complacency was not an option in the SA work environment, they regarded their permanent positions as a valuable safeguard. It thus seems obvious that for job security to be a contributing factor to the environmental security of the lecturer, a clear nationally-acceptable definition of what job security actually entails in the HE labour environment should be provided.

Only one of the Australian participants noted that since he had been appointed on a five-year contract, his job security was questionable until such time as he received tenure. This is in line with the concern noted by the Australian Government (2009:23; §4.3.1) of a “*decreased appeal of an academic career*” owing to, amongst other factors, a lack of lecturer job security due to more contract appointments as a measure to manage financial constraints in the HE sector. The lack of concern demonstrated by the other participating Australian lecturers with regards to job security was thus particular to their institution only and that due to its financial viability and status.

#### **8.4.2.3 Category 6.3: Rewards and promotion opportunities**

The third category that was recognised by the vast majority of the participants for its influence on their environmental security consisted of rewards and promotion opportunities for teaching excellence, with recognition for their “*considerable efforts*” to ensure that students received a quality education. Most of the participating lecturers in the individual interviews, and all of the lecturers with a focus on teaching excellence that formed part of the focus group, maintained that such rewards were scarce and that promotion opportunities were primarily dependent on research outputs, irrespective of the nature and quality of teaching endeavours. The credibility of such promotion criteria was questioned, one participant saying that “*if the average lecturer spends 60% to 75% of his time on teaching-related tasks, why are the rewards for research always much higher, and why should my promotion then be determined mainly by how much I publish? We need criteria for excellence in teaching and we need to get promotion opportunities for that.*” Another added that “*it would be so good to get rewarded for actually doing what we were appointed for: the education and development of students to contribute to society as working adults.*”

The above perceptions corroborate scholarly views like those of Chalmers (2011:25), Carney (2013:66), and Young (2006:192) on the lack of rewards and recognition for teaching excellence (§6.2.2) in the global HE context “*while professional rewards for research have*

*been explicit* (Cretchley *et al.*, 2014:652). One focus group participant noted with resignation that their dean *“has made the two career paths very clear. If you want to focus on becoming an excellent lecturer, go for it. Get a PhD and work towards becoming a senior lecturer, but be satisfied that your climb up the ladder in the academic world will end there. You will get rewarded on other levels for your teaching, but you will not be rewarded with a professorship.”*

All the SA focus group participants were adamant about the fact that the time has come for the recognition of teaching excellence with a clear promotional path not dependent on discipline research. A few of them noted that they’ve surmised that such an option is currently under investigation at national level. Up until the completion of this thesis evidence of such endeavours could not be found, but the value that such a promotional path would add to excellence in teaching and to the viability and status of the academic profession is definitely acknowledged and should thus form part of the guidelines to improve the juridical foundation for lecturer accountability if lecturer environmental security is to be enhanced. In addition, many of the SA participants emphasised that peer review of teaching practices was the best mechanism to determine the quality of a lecturer’s teaching. As one focus group participant rightly noted, *if a career path for teaching excellence did exist, like with rigorous peer review of research to publish in accredited journals, rigorous peer review should be part of promotion towards professorship in teaching.* A teaching-oriented career path is again addressed in section 8.4.2.5 where the research vs. teaching debate is elucidated.

In the Australian context the situation is much the same, except that the participants were resigned to the fact that *“if you don’t want to publish, then you have to accept that you will not be promoted in our system. Our staff knows and accepts that.”* At their institution they have teaching-only positions on temporary contract-basis for lecturers not interested in a promotional path in research.

It is therefore obvious that although rewards and promotion opportunities seemed supposedly practicable to enhance lecturer security, it rarely fulfils this function in the current SA HE context.

#### **8.4.2.4 Category 6.4: Bureaucracy**

The first of the three categories that emerged as elements that threaten the environmental security of the lecturer is the evidence of bureaucracy in the HE environment as criticised by a few of the SA participants. One participant described its growing negative effect when stating that *“because of bureaucratisation the Higher Education environment has changed towards more and more admin tasks and paperwork. The load of administrative work is encroaching on the tasks of lecturers and maybe this reduces the professional status of*

*lecturers to that of administrative workers.”* In the focus group discussion in particular the participants were outspoken regarding the restrictive effect of bureaucracy on their teaching-related work, bemoaning the fact that even necessary changes to curricula and outcomes to the benefit of students and future employers required such a burden of administrative work due to external accountability requirements that lecturers “*think twice*” before deciding to “*go through the laborious bureaucratic process.*”

Once again the obvious solution to such an issue comes down to funding, since the appointment of so-called “*professional staff*”, who assist and support Australian lecturers with such matters, seems to be out of reach for their SA colleagues where lack of funding does not allow for such luxury. Yet, since bureaucracy was identified as a threat to the environmental security of the SA lecturer, the juridical foundation for accountability should encompass the regulation of the bureaucratic process and the lecturer’s responsibility for administrative duties if this threat to environmental security in the workplace is to be managed efficiently.

#### **8.4.2.5 Category 6.5: Research vs. teaching debate**

The second category that emerged as threatening to the environmental security of the lecturer is the research vs. teaching debate. Many of the participants alluded to the sham of the workload percentage allocation for research, teaching and community service that forms part of the usual employment contract of a typical lecturer to senior lecturer position. In this regard one of the responses from the focus group participants is noteworthy: “*why do we have a formula for teaching-research-service if no one thinks of rewarding the teaching and the service? And if you think of it – teaching students is community service. Are students not part of the community? And are you not providing the best possible service if you then teach the students in such a manner that they will be able to serve their communities effectively when they graduate?*” Moreover, not one of the participants agreed that it was possible to manage workload in terms of that allocation. “*Something’s gotta give, and it’s usually the teaching*” was the glib response of one of the SA lecturers.

Another SA participant made a strong argument for rather focusing on research than teaching by saying that “*the admin related to the teaching may sway me towards rather being a researcher... the taxation on my time for the teaching admin and all the post-teaching responsibilities... that has a negative effect on my average workday and I see no rewards for that, so I feel that a lot of time is wasted whereas I could have rather spent it on research. With research mostly every minute you put in, you get value out again, while with teaching it’s just not really like that. How do you measure if your input equals your output?*” Another pointed out that “*you can be the best lecturer under the sun – it’s not going to get you*

*anywhere unless you have that magic X-number of publications.*” These responses were echoed in the voices of other participants who linked their status in the academe to how well they were known nationally and internationally as discipline researchers, despite the fact that most of them acknowledged that their main task should be to provide students with a quality education.

As indicated by the literature overview on the changing nature of academic work worldwide (§6.2.1), lecturers are under enormous pressure to enhance the quality of teaching to improve the employability of their graduates, yet the call for research outputs has not decreased in the face of such demands on teaching accountability. Moreover, one SA participant justified a lack of focus on the improvement of teaching practices by saying that *“I know that quality teaching is often talked about, but I still need to see proof that excellence in teaching will get you promoted. Your colleagues may recognize your teaching to be of a good standard... but that won’t get you to a professorship.”*

In the focus group discussion this issue elicited a particular embroiling dialogue. Since these lecturers all have a strong focus on quality teaching, their disillusionment with the ensuing emphasis of national and institutional leaders on research was poignant, and their plea for a clear career path for lecturers who excel in teaching was heartfelt. One of these lecturers voiced a question that was loudly supported by the group: *“Who decided anyway that research should be afforded higher status than lecturing? Was it the Department who decided that? Because that is actually hilarious since it is also the Department that expects massification together with increased student success. How absurd that they expect excellence in teaching to ensure student success, and yet they advocate that a research university is of a higher status and will generate greater funding than a teaching university.”* According to one of the focus group lecturers, this situation gives rise to *“many of the full professors in our faculty being some of the worst lecturers that I’ve ever come across. I don’t plan to be labelled as a professor and one of the worst lecturers ever.”*

In the White Paper for post-school education and training (2013; §3.2.1) the DHET acknowledges the *“unrealistic teaching loads and high student-to-staff ratios”* due to the massive forced expansion of student enrolments, yet the cry for more publications and the promise of more funding for research have not decreased. Moreover, Government’s expectations of HE institutions to deliver employable graduates *“who can contribute towards the socio-economic demands of the different SA communities”* is now stronger than ever in the face of massive unemployment. It is thus of the essence that national imperatives demanding more accountability for quality teaching should be aligned with the much needed financial aid to provide lecturers with the necessary support to deliver on those expectations.

The obvious solution to the issue of research vs. teaching and its influence on the environmental security of the lecturer is for the DHET to advocate that institutions offer a dual career path for academics, one for discipline researchers, and the other for teaching scholars, both with promotional opportunities to the coveted title of professor. Such an initiative should not have a negative influence on the number of discipline publications, yet will have a significant impact on the quality of teaching and on the growth of publications in teaching scholarship that requires action research in university classrooms.

The establishment of a dual career path was strongly supported by the focus group participants, one stating that *“there should be a career path for becoming a professional lecturer, a professor in teaching of a discipline. So why not have the option of being a research professor or a teaching professor?”* One final and meaningful observation by one of the focus group participants concludes this discussion and underscores the importance of a career path for lecturers with a focus on teaching excellence: *“have you noticed.. that it’s always the same lecturers who participate in the teaching awards, in a continuous cycle? It’s indicative of the fact that a lecturer joins the university with a set focus – either on teaching or on research. And that focus will seldom change. If you want to excel in research, a teaching qualification, even if it was compulsory, will never change your focus to suddenly becoming an excellent teacher. It’s further proof that there should be two career paths – and both should be rewarded with the status of professor.”*

#### **8.4.2.6 Category 6.6: Lecturer workload and diverse responsibilities**

The negative effect lecturer workload and role diversity have on lecturer environmental security is extensive judging by the considerable number of SA participants who referred to these elements when the issue of their security was under discussion. This is by no means a phenomenon unique to the SA HE environment. In section 2.4.36.2.2, the views of scholars such as Askling (2001:170), Churchman and King (2009:509), Feigenbaum and Iqani (2013:46), Kinman *et al.* (2006:20), and Rothmann *et al.* (2008:404) were indicative that continuous increases in lecturer responsibilities, teaching loads and research expectations are worldwide concerns, specifically for the negative influence thereof on lecturer job satisfaction and job stress. Last-mentioned will be addressed as part of theme seven (§8.4.3) when lecturer psychological security is discussed. In addition, section 12 of the SA Constitution stipulates the right to psychological integrity, a right that is not respected when excessive workload results in psychological ill health or burn-out in lecturers (§2.4.3).

While Chapter 2 of the Basic Conditions of Employment Act (75/1997) regulates normal working hours at a maximum of 45 hours per week (§3.3.3), a number of the SA participants noted the excessive work hours that they had to put in on a weekly basis in order to fulfil all

their responsibilities. One noted that “*you have to consistently overachieve, consistently do more, publish more, work more. That’s just a fact of academic life.*” Another ironically remarked that “*I’ve heard of people who actually have to take leave so that they can do all their work,*” while one stated in a resigned manner that “*a lecturer’s work is never done.*” Although a few of the participants demonstrated awareness of the national standard for normal expected working hours, none of them expressed the opinion that they would consider exercising that right in their own labour environment. Rather, a few of them said that lecturers who cannot cope with the workload should seriously consider finding employment elsewhere; since none of them foresaw that the situation will change.

Most of the Australian participants echoed last-mentioned sentiment, one stating empathetically that “*some academics forget that they’re employed to do a job, and that job entails teaching and marking and committees and research and service....and many other roles... and in fact our job extends over 52 weeks of the year. And it’s not office hours. You know that when you’re appointed, so you should not be under any illusion that it will change.*” It is thus obvious that these lecturers accepted that the life of an academic is suited to a unique type of person, thus motivation for considering a unique set of juridical guidelines to regulate accountability and enhance security of employees in this sector. The Australian Modern Award for academic staff that clearly delineates the responsibilities of staff at different post levels (§4.4.2) again comes to mind as an example of a suitable answer for the regulation of lecturer responsibilities.

The diverse nature of lecturer teaching-related responsibilities has already been addressed in theme one (§8.3.1.1) and will not be revisited here. What is of importance though, is that lecturer accountability for teaching-related work should be clearly delineated, preferably at national level, and regulated at institutional level according to a clear juridical guideline if the environmental security of the lecturer in terms of workload is to be protected.

#### **8.4.2.7 Category 6.7: A clear accountability framework**

One of the questions in the interview schedule asked of participants to decide whether a clear delineation of, or framework for their accountability in their teaching-related work will be to their benefit or detriment, and to motivate their perceptions. It was clear from the analysis that this category should form part of the environmental security of the lecturer in that the majority of the SA participants felt that such accountability delineation would provide guidelines to determine workload (category 6.6, §8.4.2.6), teaching rewards, and promotion opportunities (category 6.3, §8.4.2.3).

The Australian participants were sceptical regarding the value of such a framework however, warning against its “*potential to be stifling, especially across disciplines*” and “*to implement a*

*framework across the board may get a lot of resistance.*” In general they maintained that they already have a clear delineation of their accountability for different post levels as derived from the National Modern Award for academic staff (§4.4.1), and therefore felt that any additional framework will lead to over-regulation. In reality, this is a strong motivation for developing guidelines that will improve a nationally recognised juridical foundation for lecturer accountability in the SA HE context and provides impetus for the notion that such a foundation will enhance the security of the SA lecturer.

One of the SA participants in favour of such a framework said that *“you can be secure if you know what people expect of you and if they tell you exactly what you must deliver,”* thus linking the delineation of teaching responsibilities to clear task requirements as essential characteristic of accountability (category 2.2, §8.3.2.2.1). The same participant added that a clear accountability framework *“will set a standard against which we can measure ourselves and our colleagues. Everyone will have to be accountable and lecturers will not be able to slack off,”* thereby voicing a similar perception shared by a few of the other participants, like one lecturer smilingly noted: *“it’s kind of difficult to dodge your duty if there is a framework against which management will measure your performance.”*

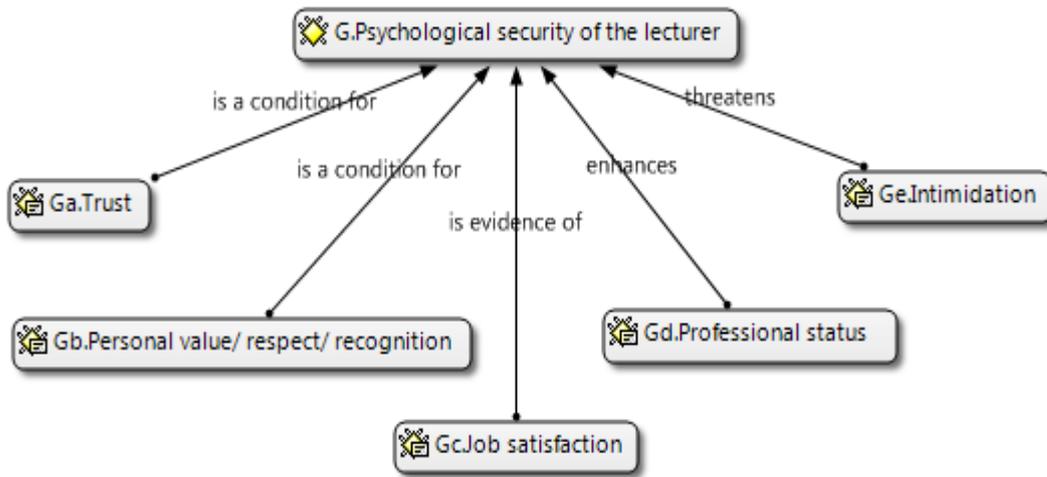
Quite a number of the SA participants mentioned the value of defining accountability according to different post levels, and that the guidelines of such delineation should then be used by management to determine corresponding rewards for teaching performance, but also necessary development opportunities for those in need of improvement in teaching practices. A few of the participants voiced concern that such a framework could be misused by management for further regulation and restriction and emphasised the necessity to clarify its purpose in terms of the enhancement of security and to regulate workload at the different post levels. Another valuable perception was voiced by a lecturer who noted that a clear accountability framework *“will definitely improve the quality of the teaching at our institution, because it will promote discipline among the lecturers if they knew exactly what is expected of them. It should of course be reinforced, because we will not take note of that if we are not aware of the necessity to implement it.”* Last-mentioned view reinforces the importance of transparent consequences for negating expected responsibilities as an essential accountability element to enhance lecturer security (category 2.3, §8.3.2.3.1). It is posited that the delineation of lecturer teaching-related accountability at different post levels, derived from clear national legal guidelines, should thus be integrated into the employment contract or annual task agreement of a lecturer. This mechanism would enhance the environmental security of the lecturer by regulating workload, setting a benchmark for teaching rewards and promotion opportunities, and ensuring transparency in task requirements and consequences for negation of such requirements.

This concludes the data analysis and discussion of the categories that emerged as associated with the environmental security of the HE lecturer. The environmental security of lecturers would thus be enhanced if the expectations and demands of their teaching-related work were situated in a suitable rights framework with a focus on lecturer support, job security, rewards and promotion opportunities for teaching excellence, and a clear delineation of their responsibilities to manage their considerable workload. Subsequently the psychological security of the lecturer will be addressed.

### **8.4.3 Theme seven: the psychological security of the lecturer**

The third and final theme that emerged in relation to the security of the lecturer is the psychological dimension thereof. The term was derived from section 12 of the SA Constitution which specifies the right to freedom and security of the person, encompassing the right to both bodily and psychological integrity. In the HE employment environment, psychological integrity thus implies that the lecturer may not be treated in a degrading, intimidating or inhumane manner that may in any way infringe on his or her right to psychological well-being (§2.4.3). In addition, basic labour principles encapsulated in, amongst others, the BCEA (§3.3.3), require of the employer to provide employees with a safe and healthy work environment. It also points to the employer's duty to ensure that the psychological health of employees is protected and psychological risk factors are constrained or managed competently (§2.4.3).

The importance of lecturer psychological security has also emerged during the literature overview where scholars like Jenson (2006:97-98), Breaux *et al.* (2009:311), Kinman *et al.* (2006:20) and Rothmann, Barkhuizen and Tytherleigh (2008:417) reported concern for lecturer job stress and dissatisfaction at work due to high job demands and accountability expectations that often led to psychological ill-health, burn-out and academics eventually leaving the profession (§1.4.4 & §6.2.2). With the above in mind, the data pertaining to the question of lecturer security were analysed to find references to lecturer psychological security. After analysis and interpretation, as illustrated in Figure 8.8, five categories emerged that comprise the participants' perceptions of the elements that have an influence on their psychological security, namely (i) trust, and (ii) personal value, respect and recognition as conditions for psychological security; (iii) job satisfaction as evidence of psychological security; (iv) professional status as element that enhances psychological security; and (v) intimidation that threatens lecturer psychological security.



**Figure 8.8: Network for theme 7: The psychological security of the lecturer**

### **8.4.3.1 Category 7.1: Trust as a condition for psychological security**

Several of the SA participants indicated that the extent of over-regulation in their work environment led to questions with regards to the trust that management and the public showed in their abilities to be effective in their work. One lecturer said that it is as if “*they want us to prove our capabilities in everything we do. I think lecturers sometimes feel harassed and stressed, and not really trusted to do a good job of educating our youth.*” This is in keeping with Morley’s (2003:5) assertion that academics “*seem to have lost much of their autonomy and authority*” (§2.5) while, as one focus group participant noted, “*I will do more for someone who trusts me than for someone who is constantly looking over my shoulder.*”

It was evident from a number of the participant responses that a relationship of trust was viewed as “*non-negotiable*” for their psychological security, yet the element of trust was not a given in their current employment environment. Similarly, most of the Australian participants were also adamant that “*being trusted by faculty and institutional management... and by the public at large... to do a good job of educating our youth*” was essential to their psychological security. One noted that “*you can’t really do anything nowadays without it being a long and laborious process, getting approval from various people and bodies... it’s just so slow. You just can’t be as responsive now as you’d like to be*”, thus indicating that they had to contend with much the same issues in this regard in the Australian context.

Since the SA lecturers perceived increased accountability requirements as evidence of the erosion of trust that government, management and the public had in their abilities, it is of the utmost importance that the guidelines to improve the existing juridical foundation for lecturer accountability should not be viewed as just another means to hold lecturers to account. The

guidelines should rather aim at a pro-active approach that would contribute to the employer-employee trust relationship. The guidelines should include a clear delineation of teaching-related accountability and lecturer-specific conditions of employment that will ensure that lecturer employment contracts clearly indicate teaching-related task expectations to regulate and protect lecturer responsibilities and subsequent workload. Moreover, it should embrace a rights framework to protect lecturers from potential environmental threats such as work overload that can affect their psychological security negatively.

#### **8.4.3.2 Category 7.2: Personal value, respect and recognition**

The second category that the vast majority of the SA lecturers identified as a condition for their psychological security in the workplace was personal value, which they closely related to respect and recognition. Only one of the Australian lecturers mentioned that these elements were prevalent in their specific institutional context, thereby also providing a meaningful definition for what it entails for a lecturer to feel psychologically secure: *“it’s about being empowered and supported to be the most effective employee that you can possibly be. This means that your employer will recognise and reward your strengths, develop your weaknesses, and use your abilities and experience in such a manner that it benefits the institution, your stakeholders, and yourself.”*

It was evident that very few of the SA lecturers felt that they received acknowledgement or appreciation for their substantial efforts in their teaching-related work, an oversight that often contributed to low morale and feelings of not being valued. Last mentioned negatively influenced feelings of psychological well-being in these lecturers and thus can be construed as an oversight in their employers’ legal duty to provide them with a safe and healthy work environment (§2.4.5 & §3.3.3). In addition, a number of the SA participants noted the lack of respect students and managers showed for teaching expertise and the negligent attitude of government, management and students towards the substantial contribution that lecturers make to the education and training of SA’s future workforce. A few of the participants were quite indignant regarding this lack of respect, evident from retorts like *“lecturers are necessary workers in any society, actually, we are part of the “scarce-skill-generation” and we should be guarded and treated with respect”*; *“take away the lecturers who have to teach the undergraduate students, and what do we have left? A very uneducated workforce! And more poverty and more unemployment”*; *“So why are we not more valuable to the government... to our institutions.”* This also points to the constitutional right lecturers have to have their dignity protected (§2.4.2).

It is thus evident from the above that the rights framework that should inform the juridical foundation for lecturer accountability must encompass guidelines to ensure that lecturers

experience personal value, respect and recognition for their teaching-related work, an issue that can once again be addressed with the offering of a career path for teaching scholars.

#### **8.4.3.3 Category 7.3: Job satisfaction**

Job satisfaction was identified by a few of the SA and Australian participants as an element that is indicative of the measure of their psychological security in their employment environment (§1.4.4). Most of these lecturers equated their job satisfaction with their inherent passion for teaching, and their need to see their students grow and develop, deriving satisfaction from making a real “*difference in their students’ lives.*” A number of them also noted wryly that they were not in Higher Education for the money, but rather for the personal reward and for the privilege of working at the forefront of their disciplines. A few of the focus group participants also associated job satisfaction with opportunities for personal and professional growth and the experience of collegial support. One participant noted that “*reduced autonomy and loss of academic freedom*” had a negative effect on his job satisfaction since he could no longer pursue other academic interests that he thought relevant to the teaching of his discipline.

The lack of trust, personal value, respect and recognition for teaching-related work as discussed in the preceding categories are variables that have a negative influence on lecturer job satisfaction. In addition, poor remuneration, less than optimal support from management and the absence of promotion opportunities for teaching excellence, all of which have been discussed in previous sections, also increase lecturer dissatisfaction at work. Job satisfaction thus seems to be a psychological state that a lecturer will achieve when he or she experiences environmental security as discussed in theme six.

#### **8.4.3.4 Category 7.4: Professional status**

In the literature overview on the work of the lecturer in a changing HE environment the professional status of the lecturer had been identified as questionable and an issue that affected the work and the security of the lecturer worldwide (§6.2.3). Therefore participating lecturers were questioned during the interviews on their perceptions of their professional status with a view to develop understanding of the influence thereof on lecturer perceived security. The analysis of the generated data clearly linked the participants’ perceptions of their professional status in the eyes of their stakeholders to the measure of their psychological security.

The participants had varied opinions regarding their professional status, some indicating that they judged their work to be of a professional nature, while others were hesitant to do so. Of the last-mentioned group, some explained that they could “*not lay claim to being*

*professionals*” since they had “*no professional teaching qualification*”, although they were practising as teachers in the HE environment. Many of the respondents positioned their status in their disciplinary expertise, yet did not view themselves as professional teachers. A few also linked professional status to remuneration, thus indicating that they fell short of qualifying for professional status when they compared their salaries to those of doctors or lawyers. Again the absence of a professional body and lack of a corresponding code of conduct and professional standards for HE lecturers were debated by a number of the SA participants, corroborating the views of scholars like Poisson (2009:16) and Akerlind (2011:183) regarding the importance of professional identity and recognition of academic standing to strengthen lecturer self-esteem and psychological security (§6.2.3).

The majority of the participants resignedly acknowledged that the general public, institutional management and also the government relate professionalism to the title of professor rather than to the practice of being an excellent teacher, thus equating professional status with research publications and international recognition. This once again provides motivation for a career path for lecturers who want to distinguish themselves as professional teaching scholars, as underscored by a SA focus group participant who said: “*I don’t necessarily want to be a professional researcher, but I do want to be recognised as an excellent and professional lecturer who teaches my subject within my professional discipline so well that I inspire students to want to be professional accountants.*” In addition, some of the participants also mentioned their continuous professional and personal development as proof of their professional status, noting that the HE environment is never static, and thus requires of them to stay abreast of developments in their disciplines but also in their teaching practices. Yet they also noted that these efforts were not recognised by their institutions as worthy of reward or promotional credit.

The above perceptions were clearly indicative of the importance of professional recognition for lecturers who excelled in teaching-related work if their psychological security was to be protected. The establishment and protection of the professional status of the lecturer, closely related to the recommendations of establishing a professional body, and developing a code of professional conduct for lecturers, should form part of the improved juridical foundation for lecturer accountability.

#### **8.4.3.5 Category 7.5: Intimidation**

The final category that emerged from the data in relation to the psychological security of the lecturer, was intimidation, which was identified by a few of the participants as a threat. These lecturers felt that their line managers threatened them indirectly when they confronted them with accusations made by colleagues for so-called disloyal behaviour whenever they

questioned institutional practices or decisions. They were also sometimes threatened with severe consequences if they did not deliver on research expectations. One participant mentioned that some lecturers had been intimidated to such an extent that they were “*even forced to resign*”, and that such behaviours caused feelings of anxiety and depression in other colleagues. Another lecturer said that when “*accountability instils fear in workers*” there was something wrong in the system that was in serious need of remediation.

It would be true to say that any form of intimidation or harassment is in direct contravention of a lecturer’s constitutional right to a work environment that is safe and secure, and should thus be prohibited within the rights framework that will inform the juridical foundation for lecturer accountability.

#### **8.4.4 Summary of the findings for the phenomenon of lecturer security**

The results of the analysis of themes five to seven provided the answer to the second part of research sub-question 4, namely how lecturers perceive their security in view of their professed accountability. As indicated in section 1.2.2, although a small number of international scholars have published on separate elements pertaining to the security of lecturers in their work environment, the findings from this study offer a comprehensive and integrated definition of lecturer security that contributes significantly to the existing body of knowledge in the field of HE, and specifically on the security of the HE lecturer. Moreover, the results provided evidence that the juridical foundation for lecturer accountability is to be based on a rights framework for the juridical foundation to have any bearing on lecturer security.

In summary, lecturers viewed their workplace security to be determined by the measure of protection that they experienced in three different yet related areas, namely legal security, environmental security, and psychological security. In terms of legal security, the findings indicated that the Australian lecturers were influenced less by the rights discourse, which fact can be attributed to political and legal stability within their society. The legal security experienced by the SA lecturers is more contentious. The findings indicated that lecturers had no knowledge or awareness of general constitutional and labour rights that might apply to protect their rights in their institutional employment environment. The absence of lecturer-specific rights and employment conditions uniquely pertinent to the nature of their work was identified as an aspect in need of consideration at national and institutional level.

The findings also underscored specific elements in the work environment related to the environmental security of the lecturer that determine to what extent lecturers are empowered and supported to fulfil all their teaching-related responsibilities effectively. Lecturers included institutional and collegial support, adequate resources, and job security as essential to their

environmental security. While the Australian participants were more than satisfied with their support and resources, they indicated that job security was only a surety for lecturers not appointed on a contract-basis. Those in contract positions mostly carried high teaching loads and should these be performed negligently, their contracts were simply not renewed. SA lecturers were notably less satisfied with the measure of support and resources at their disposal. They indicated that effort and excellence in teaching-related work should be recognised and rewarded suitably in terms of remuneration and promotion opportunities to enhance their environmental security. The prevalence of bureaucracy, the excessive focus on research outputs, and work overload were elements recognised as threats to their environmental security. The lecturers made a call for a separately recognised career path to accommodate lecturers with a focus on teaching scholarship, and deemed a clear delineation of lecturer teaching-related accountability as essential to enhance SA lecturer environmental security.

In terms of the psychological dimension of lecturer security, the findings demonstrated that lecturers perceived increased accountability measures as a lack of trust in their professional capabilities, which influenced their psychological security negatively. Furthermore, they identified personal value, respect, recognition, and an inherent passion for teaching as essential for the enhancement of their psychological security, and ultimately their job satisfaction and motivation to stay in the academe. The questionable nature of the professional status of lecturers and its influence on psychological well-being was an issue of concern. Therefore, the importance of a professional code of conduct and the establishment of a professional body for HE lecturers were some of the findings that found application in the guidelines to improve the existing juridical foundation for lecturer accountability with a view to enhance security.

In view of the above findings, it is posited that when lecturers experience satisfactory legal, environmental and psychological security, they should be secure in their professional identity and committed to act in an accountable manner. Lecturer professional security in the HE context thus encompasses:

- a) legal security in terms of an adequate national and institutional legal framework for the protection of lecturer constitutional and labour rights, and the strict regulation of minimum working conditions specific to the unique nature of the lecturer's work;
- b) environmental security in terms of effective strategies to retain, recognise, professionally develop, and adequately support lecturers while protecting them against work overload, and empowering them to effectively fulfil all expected teaching-related responsibilities; and

c) psychological security in terms of protection of lecturer psychological health and well-being through professional recognition and the enhancement of personal value, respect, trust, and overall job satisfaction, inclusive of trust in their knowledge and capabilities to be used to the benefit of the institution, its stakeholders, and the lecturer him/herself.

The subsequent and final chapter of this thesis offers the conclusions and recommendations emanating from the research. Whereas the preceding chapters have focused on answering the four research sub-questions as posited in section 1.3, the final chapter focuses on determining how the four corresponding secondary research aims (§1.5) have been realised in order to achieve the primary aim of this study, namely: to present a comprehensive understanding of the nature of both the teaching-related accountability and the security of the lecturer, and to generate guidelines to improve the existing juridical foundation for accountability that will ultimately enhance lecturer security in the South African HE context.

## **CHAPTER 9:**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **9.1 INTRODUCTION**

This final chapter has a dual purpose. First of all it provides a summary of the essence of each of the chapters of this thesis, structured according to the four secondary aims (§1.5) that focused respectively the critical review of relevant scholarship, the analysis and review of legal sources, and the empirical investigation of this research. Secondly, it accomplishes the primary aim of this research by presenting the guidelines to improve the existing juridical foundation for lecturer accountability, specifically prepared to inform the Department of Higher Education and Training and management structures of South African Higher Education Institutions, with a view to enhance the security of one of their most valuable assets, the lecturers in their employ. This chapter is concluded with an indication of the contribution of this study to the field of HE and HE law, and with a number of suggestions for future research.

#### **9.2 THE ESSENCE OF THIS RESEARCH**

Subsequently the essence of every part of this thesis is highlighted with a view to realise the research aims of the study.

##### **9.2.1 The groundwork that framed the study**

Chapter 1 provided the background and orientation to, as well as the justification for the research (§1.2). The initial literature overview has indicated that the widening of access to HE for more students, and parallel to that a call for more accountability in the HE sector locally and globally, have altered the former elitist status of the university, resulting in a considerable loss of professional standing of lecturers and a simultaneous decline in their working conditions and autonomy. The sharp increase in student numbers with a corresponding decrease in student success rates, has led to lecturers being held more accountable for the quality of teaching and student learning by the students and parents, other stakeholders in the public sector, and government itself. Ironically, the mentioned issues should actually have resulted in governments and institutions prioritising the retention, professional development, upliftment and legal protection of the employees responsible for educating the future workforce. Yet the work environment of the lecturer has been characterised by poor support, lack of recognition or reward for teaching efforts and excellence, and absence of legal protection when failing to fulfil the undefined yet high accountability expectations in their teaching-related work. Concomitantly, the focus on

research as main determinant of professional status and promotion expectations has been a constant bone of contention.

The research problem and research questions stemmed from this rationale (§1.3). The chapter further offered the conceptual framework within which the concepts of accountability and security in the SA labour environment were positioned for purposes of this study (§1.4). Thereafter the purpose and aims of the research were presented (§1.5), followed by a brief summary of the research methodology and paradigm for the empirical study, and the outline of the nature and scope of the research design (§1.6). My role as researcher in the empirical work (§1.6.6), the provisions for trustworthiness of the design (§1.6.7), and the anticipated limitations of the study (§1.6.8) were thoroughly explained while the projected relevance and contribution of the study were anticipated (§1.7). The chapter concluded with a chapter division of the remainder of the thesis (§1.8).

## **9.2.2 The existing South African national and institutional legal frameworks for accountability regulation and rights protection**

The first of the secondary research aims that was investigated via a comprehensive review and critical analysis of relevant legal sources reported in Chapters 2 and 3 was:

*Determine how South African national and institutional sources of law regulate accountability and expected conduct, and provide for the protection of the rights and security of HE lecturers.*

The following sections offer the main conclusions and recommendations for this research aim.

### **9.2.2.1 The South African Constitutional framework**

The purpose of Chapter 2 was to investigate the contribution of the SA constitutional framework, as the personification of SA's contemporary democracy (§2.1), to the accountability and the enhancement of the security of the HE lecturer. It was determined that the lecturer, similar to all other HE stakeholders, is equally entitled to all the rights stipulated in the Bill of Rights (§2.3), but also subject to and accountable for upholding the provisions of the SA Constitution and derived legislation relevant within the HE environment. The founding values of the Constitution, namely equality, human dignity, human rights and related freedoms, form the basic standard against which all lecturer conduct in the employment environment must be measured, but also the legal basis for lecturers to challenge policy, rule, system or conduct that threatens their constitutional rights (§2.2).

Except for section 28 of the Constitution, concerning the rights of the child, the lecturer is entitled to the remaining 25 rights stipulated in the Bill of Rights. Only a selection of these rights were further analysed as specifically pertinent to the accountability and security of lecturers in their employment context (§2.4). The lecturer's rights to equality (§2.4.1) and human dignity (§2.4.2), and the obligation to likewise treat others with respect, underpin the juridical foundation for lecturer accountability and security in the workplace. The other fundamental rights that were analysed and found to inform lecturer accountability and security are: a) the right to freedom and security of the person, referring to the protection of both bodily and psychological integrity, and a work environment that is safe and not harmful to the well-being of employees (§2.4.3); the right to freedom of expression (§2.4.4), inclusive of the right to academic freedom specifically pertinent to the work of the lecturer; the right to fair labour practices (§2.4.5) and mutually beneficial employer-employee relations as further codified in the provisions of national labour legislation (§3.3), inclusive of the right to freedom of association relevant to lecturers in that they can affiliate with bodies such as trade unions for protection of their minimum conditions of employment; and the right to just administrative action in the labour environment that is lawful, reasonable and procedurally fair (§2.4.6).

Since there is an absence of literature on the practice of constitutional rights protection of the lecturer in the SA HE context, specifically, Chapter 2 concluded with a summary of the limited number of opinions that could be obtained from literature with regards to the general measure of protection and subsequent security that lecturers worldwide experience in their working environment. The findings were less than ideal and indicative of unfair labour practices, work overload, and an erosion of academic freedom and professional autonomy that negatively influence the well-being of lecturers worldwide. Subsequently, although SA lecturer conduct and accountability are regulated by the SA Constitutional framework, and while they are entitled to the protection of their constitutional rights, and specifically those relevant to their employment environment, there is an absence of practical application of such protection in their teaching-related work. The findings from the empirical investigation as summarised later in this chapter have shed further light on this important issue.

### **9.2.2.2 The South African Higher Education and labour legal framework**

Chapter 3 was dedicated to the review and analysis of national legislation particular to the HE (§3.2) and labour environments (§3.3), as well as institutional legal determinants (§3.4), in search of provisions that bear on the regulation of lecturer teaching-related accountability, expected conduct, and protection of their security. Included in the review of HE-specific legislation was the HE Act (§3.2.3), the National Qualifications Framework Act (§3.2.4), the Higher Education Qualifications Sub-Framework (HEQSF, §3.2.5) and the South African

Qualifications Authority Act (SAQA, §3.2.6). As noted in section 3.2.7, the analysis revealed that these statutes sufficiently provide for the regulation and governance of HE institutions with a view to responsiveness to the current needs of the country, and a focus on quality of provisioning, equality in the widening of access to and diversity in HE provisioning, and greater mobility and progression for all within the post-school system. The only strategic foci addressed in national legal documents that related to the teaching-related work of the lecturer, are the clear standards for qualification design (HEQSF, §3.2.5) and expected graduate competences (SAQA level descriptors, §3.2.4) that lecturers must take into account as part of their curriculum development responsibilities (§6.3.6). In addition, the results indicated that relevant constitutional rights, e.g. equal employment opportunities, social justice, protection of academic freedom, and provision of safe and supportive educational environments, have found theoretical application in certain HE subordinate legislative documents such as the DHET White papers and National plans (§3.2.2). The analysis also revealed that the most recent DHET White paper (2013) mentions concern for staffing of universities and notes the planning of policy initiatives for the recruitment and retention of academics and the improvement of their conditions of service (§3.2.2). At the time of completion of this thesis, I have not yet found evidence of the implementation of such initiatives.

The review of national labour legislation in search of provisions that regulate lecturer accountability, expected conduct and security, included an analysis of the Labour Relations Act (§3.3.2), the Basic Conditions of Employment Act (§3.3.3), the Employment Equity Act and Promotion of Equality and Prevention of Unfair Discrimination Act (§3.3.4), and the Occupational Health and Safety Act (§3.3.5). As noted in section 3.3.6, the protection of the constitutional rights (§2.4) of lecturers, especially the rights to fair labour practices and a safe and healthy working environment, is entrenched in the provisions of the said Acts. Those provisions are essential also in the context of lecturer employment rights, minimum working conditions, and workplace security. It was also found though, that labour disputes in the SA HE environment often pertain to unfair labour practices, pointing to the fact that such provisions do not necessarily find correct application in the work environment of the lecturer (§3.3.2). Furthermore, the results revealed that legislation delineating the working conditions specific to the unique nature of the work of the lecturer will address most of the issues of concern in terms of unfair labour practices (§3.3.3).

### **9.2.2.3 The South African institutional legal framework**

The final part of Chapter 3 was devoted to an analysis of institutional regulation of lecturer accountability and conduct, and an investigation into institutional legal sources relevant to the

protection of the rights of lecturers. Included in the analysis were institutional policies, rules and regulations (§3.4.2), lecturer employment contracts (§3.4.3) and institutional codes of conduct (§3.4.4). It was found that institutional policies, rules and regulations provide a sufficient legal framework for lecturers to find restitution for suspected infringement on their constitutional rights to human dignity, equal opportunity, unfair discrimination, freedom of expression, just administrative action, occupational health and safety and fair labour practices. Policies on the regulation of certain employment conditions such as working hours and workload, remuneration and promotion opportunities, as well as resource allocation, were noticeably vague and were therefore identified as questionable (§3.4.2). In view of the fact that national labour principles require that the contract of employment should lay the foundation for the accountability and employment security of an employee, a sample of lecturer employment contracts was analysed to find evidence of the specification of lecturer responsibilities and rights (§3.4.3). The results indicated that the standard employment contracts of SA academic staff in permanent positions at the concerned research sites adhered to the general labour requirements as provided for in applicable national labour legislation (§3.3). Furthermore, it was evident that the employment contracts fulfil the dual purpose of regulation of lecturer activities, and protection of lecturer rights and benefits that arise from the employment relationship that is established by the agreement.

The one element that was considered lacking in the employment contracts was the specification of the teaching-related responsibilities of lecturers, thus complicating the determination of their accountability. The results of the analysis also indicated that institutional codes of conduct were relevant as legal sources for the regulation of lecturer conduct, but also for the protection of lecturers against unethical or undisciplined behaviour of colleagues or management (§3.4.4). It was found that the foci in these codes are on upholding human dignity and respect for all HE stakeholders, to guarantee fairness and tolerance in all interactions, and to ensure that university employees act in a loyal and trustworthy manner towards their employer.

This concludes the summary of the current South African national and institutional legal framework for accountability regulation and rights protection of lecturers with a view to realise the first of four secondary research aims as offered in Table 9.1. The recommendations as provided in the said table find application in the guidelines to improve the existing juridical foundation for accountability to enhance the security of the HE lecturer.

**Table 9.1: Conclusions and recommendations for secondary research aim one**

**Research aim one**

**Determine how SA national and institutional sources of law regulate accountability and expected conduct, and provide for the protection of the rights and security of HE lecturers.**

**Positive conclusions:**

- The national constitutional, labour and HE legal frameworks, and institutional legal provisions, provide for the protection of the fundamental and general labour rights of HE lecturers.
- The institutional legal framework provides for the regulation of lecturers' expected conduct.

**Negative conclusions:**

- The national and institutional legal frameworks do not provide for specific labour rights protection despite the obviously unique nature of lecturers' work, thereby negatively influencing their security.
- The national legal framework makes no provision for the regulation of the expected conduct of lecturers.
- Neither the national nor the institutional legal framework makes sufficient provision for the clear delineation or regulation of the teaching-related accountability of lecturers.

**Recommendations for development at national legislative level:**

- Develop unique minimum conditions of employment for the lecturer.
- Develop a national Code of Professional Conduct for HE lecturers as addendum to the HE Act (101/1997).
- Develop a national guideline for the teaching-related roles and responsibilities, and subsequent accountability of the lecturer.

### **9.2.3 Lessons learnt from Australia**

A comparative approach was employed to investigate the second research aim, of which the results are reported in Chapters 4 and 8:

*Determine how a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the accountability, expected conduct and rights of the lecturer can inform the juridical foundation for accountability to enhance the security of the South African lecturer.*

The comparison comprised a theoretical component as part of the literature overview (Chapter 4) to compare the HE and labour legislative regulation of lecturer accountability and security in South Africa and Australia; and an empirical component to compare Australian and SA lecturer perceptions of their teaching-related accountability and security (§7.6.2).

In the following sections the main conclusions and recommendations for this research aim are presented.

### **9.2.3.1 The legal foundation of the Australian Higher Education and labour landscape**

The purpose of Chapter 4 was to compare certain aspects of the legal foundations of the Australian and South African HE and labour landscapes with a view to mirror the regulation of lecturer accountability in South Africa against that of Australia. The theoretical comparison formed the basis for the comparative component of the empirical study of which the main findings are reported in the next section (§9.2.3.2). This section provides the conclusions of those unique Australian legal provisions that I deemed significant to consider for the improvement of lecturer accountability and security regulation at home.

As reported in section 4.3.2, the growing demand for improved performance in teaching in Australia over the past decade has led the Australian Commonwealth to devise a national standard for quality teaching with corresponding performance indicators for teaching and learning to encourage, fund, reward and steer teaching innovations. The implementation of these minimum standards at institutional level allowed for different institutional contexts. In addition, the Australian Government collaborated with Australian universities to develop the Mission Based Compacts to provide Australian lecturers with an alternative career path separate from that of academic researcher in an effort to facilitate capacity building in the HE sector, thereby affording official professional recognition to academics with either a teaching or a research focus. Moreover, the analysis revealed that many universities have begun with strategic initiatives to improve the quality of teaching and learning by providing focused training and development opportunities for current academic staff, and requiring new and early career academics to obtain formal qualifications in HE teaching.

The comparison further revealed the inclusion of the Higher Education Standards Framework in the Australian TEQSA Act (§4.3.3.3) that provides for the formulation of national quality standards for all aspects pertaining to provider registration, course accreditation, qualification design and teaching and learning. The provider standards, the course accreditation and the qualification standards are already encapsulated in the so-called national Threshold Standards (§4.3.3.4). It was disappointing to find that the Non-threshold Standards that will ultimately encapsulate the national quality standards specifically for teaching, learning and research, have not yet been published at the time of completion of this study. The Non-threshold Standards would have been invaluable as informative document to the existing juridical foundation for lecturer teaching-related accountability. The Threshold Standards provide for the protection and retention of academic staff by emphasising the regulation of

work conditions such as effective workload management; merit-based selection and promotion processes; appropriate and efficient induction; protection of academic freedom and free intellectual inquiry; performance review; grievance procedures; and professional development of lecturers. Also noteworthy is that the Threshold Standards set national requirements for the appropriate qualifications of academic staff to teach at certain levels of the AQF, as well as the requirement of lecturer understanding and application of pedagogical and adult learning principles relevant to the student cohort that they are responsible to teach. It is evident from the above findings that Australian HE-specific legislation is rife with regulation of lecturer teaching-related accountability, but also with the protection of lecturer rights specific to their unique work environment.

With regards to the results from the comparison of national labour legislation as reported in section 4.4, it was evident that whereas various Acts regulate labour relations at national level in South Africa (§3.3), national employment issues and relations in Australia are fundamentally governed by the provisions of the Fair Work Act, inclusive of the National Employment Standards (§4.4.2), and the so-called national Modern Awards that provide additional minimum terms and conditions for particular industries or occupations (§4.4.1). The national Modern Award for the Higher Education Industry – Academic Staff Award 2010, specifies how the minimum conditions of employment of the Fair Work Act must be applied in the HE sector, and provides for a description of Level A to E academic appointments for lecturers on a career path in both teaching and research, and those on a research only career path. The minimum standards and broad task requirements for each level of appointment are thus standardised across Australia, setting a minimum benchmark for academic appointments at all institutions of higher learning. In addition to the Modern Award for the Higher Education Industry – Academic Staff, the majority of employment conditions of lecturers are regulated by collective workplace agreements that are negotiated between the university, employees and the relevant unions through enterprise bargaining (§4.4.1).

### **9.2.3.2 Australian lecturer perspectives on their teaching-related accountability and security within their employment context**

The findings of the empirical study pertaining to the Australian lecturer perspectives on their accountability and security as reported in Chapter 8, are also relevant to the realisation of the second research aim of this study. As the findings were discussed in detail in Chapter 8, only the most salient Australian participant perspectives as relevant to the realisation of the concerned research aim are offered here.

Key findings for theme 1: The teaching related accountability of the Australian HE lecturer (§8.3.1)

There was much similarity in the Australian and SA participant perspectives regarding the diversity of their teaching-related responsibilities and the focus on accountability for teaching quality to ensure opportunities for student learning. The following Australian practices are deemed of value to inform practices in the SA context:

- To enhance teaching quality of large groups: a clear distinction between the roles of lecturer as information provider for larger student groups at the beginning of each week without the requirement of active learning, and later as facilitator for smaller groups of the same student cohort on the topics lectured at the beginning of the week, where student interaction is key (§8.3.1.1.2). In the SA context such an approach can only be implemented if capacity is addressed.
- In the Australian context there exists a national standard for quality teaching that informs what is expected of lecturers in terms of teaching outcomes (§8.3.1.1.2).
- Although the Australian participants view customer care and the protection of student rights as part of their accountability, they hold a balanced view in that they acknowledge that their own rights are equal to those of students (§8.3.1.2.1).
- Australian participants are keenly aware of the expectations documented in their institutional codes of conduct as part of their employment accountability (§8.3.1.2.2).
- While in the SA context through-put rates are the primary measures of student success, graduate employability is a primary measure of student success in the Australian context (§8.3.1.3.1).

#### Key findings for theme 2: The essential characteristics of accountability of the Australian HE lecturer (§8.3.2)

While the Australian and SA participant views on the essential elements of their accountability were comparable, a few differences of opinion are worth mentioning here:

- While SA participants view the student as primary accouter, Australian participants perceive future employers, industry and the broader public to be the main accounters (§8.3.2.1.1).
- Post level is a major determinant of lecturer accountability (§8.3.2.1.3), in keeping with the clear classification of academic staff appointments (Level A to E) in the 2010 National Award for academic staff that forms part of the labour legislation governing HE in Australia as discussed (§4.4.1).
- Transparency of disciplinary penalties and sanctions for neglect or underperformance in teaching accountability are noted as a given in the Australian context, mostly due to contract appointments that are simply not renewed if the concerned lecturer underperforms or neglects his or her duties (§8.3.2.3.1).

Key findings for theme 3: The origin of lecturer teaching-related accountability of the Australian HE lecturer (§8.3.3)

- Once again post level strongly emerged as a significant institutional source for lecturer accountability (§8.3.3.1), again indicating the significance of the inclusion of the post level indicators in the Australian National Modern Award for academic staff (§4.4.1).
- Australian participants were keenly aware that all institutional policies and rules that regulate and govern their teaching-related work, originate from national legislative sources, especially the TEQSA Act (§4.3.3.3) that determines the expected standards for teaching quality and programme development at university level.

Key findings for theme 4: Mechanisms for the regulation of lecturer teaching-related accountability of the Australian HE lecturer (§8.3.4)

- In the Australian context employer surveys of graduate employability are important mechanisms to regulate lecturer teaching-related accountability (§8.3.4.2.1).
- Student evaluation instruments are scientifically developed and Australian lecturers have such confidence in the results that they use these to enhance their teaching practices (§8.3.4.2.2).
- Similar to their SA colleagues, the Australian lecturers view peer review as the most appropriate mechanism to determine teaching effectiveness (§8.3.4.2.4).

Key findings for theme 5: The legal security of the Australian HE lecturer (§8.4.1)

It was noticeable that the Australian lecturers are cognisant of and comfortable with the legal framework that protects their rights and regulates their conduct in their labour environment. Only one key finding can contribute meaningfully to the concerned research aim:

- Lecturers' awareness of their rights in terms of health, safety and support can be ascribed to a thorough induction programme for all new lecturers where labour rights and lecturer obligations are covered, and after the induction lecturers have to complete an online course on labour rights and obligations as part of their employment requirements (§8.4.1.1).

Key findings for theme 6: The environmental security of the Australian HE lecturer (§8.4.2)

There were no significant findings for this theme that can meaningfully contribute to the realisation of the concerned research aim, mostly due to the fact that the selected Australian university obviously offers the type of support and resources, inclusive of professional staff in the different faculties, which are ideal to ensure that their staff can effectively do their work.

It would be naive and scientifically unsound to generalise by suggesting that this is also the state of affairs at most other Australian institutions.

Key findings for theme 7: The psychological security of the Australian HE lecturer (§8.4.3)

Once again there were no significant new or contradictory findings for this theme that can meaningfully contribute to the realisation of the concerned research theme. I am of the opinion that the national regulation of rewards, recognition and professional development, and the more specific conditions of employment available to the Australian lecturer as already noted in section 9.2.3.1 result in a greater measure of psychological security and are therefore not of notable concern to the Australian lecturer.

This concludes the summary of the most significant discoveries gleaned from the Australian perspective with a view to realise the second of four secondary research aims. The recommendations as presented in Table 9.2 find application in the guidelines to improve the existing juridical foundation for accountability to enhance the security of the SA lecturer.

**Table 9.2: Recommendations for secondary research aim two**

**Research aim two**

**Determine how a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the accountability, expected conduct and rights of the lecturer can inform the guidelines for the improved juridical foundation for accountability to enhance the security of the South African lecturer.**

**Recommendations for development at national legislative level:**

- Devise a national standard for quality teaching with corresponding performance indicators for teaching and learning, inclusive of clear accountability requirements for teaching-related responsibilities of lecturers at different post levels, to be contextualised for implementation at institutional level, and to encourage, fund, reward and steer teaching innovations.
- The above performance indicators should focus on determining teaching-related accountability via clear standards for peer review, scientifically developed student evaluations, and annual employer surveys of graduate employability.
- Establish an alternative career path to that of academic discipline researcher in an effort to facilitate capacity building in the HE sector, thereby affording official professional recognition to academics with a focus on teaching scholarship.
- Develop a national instrument to regulate the minimum conditions of employment specific to HE lecturers.
- Establish an institutional accountability mechanism for thorough induction of new lecturers regarding their constitutional and labour rights and develop a corresponding module that lecturers are obligated to complete within the first three months of appointment.

## **9.2.4 Accountability and the teaching-related work of the lecturer**

The third secondary research aim that was investigated via a review of available scholarship of which the results are reported in the conceptual framework of this study in Chapter 1, and the literature overview in Chapters 5 and 6 was:

*Identify and theoretically analyse the characteristics that constitute accountability in general, and in particular the accountability of HE lecturers.*

The following sections offer the main conclusions and recommendations for this research aim.

### **9.2.4.1 The nature of accountability**

The purpose of Chapter 5 was to provide a theoretical foundation for accountability in general, and lecturer accountability in particular. It was evident from literature that although the nature of accountability is determined by context, there are certain common elements that validate accountability in any setting (§5.1). These elements are:

- a) answerability to an accouter (§5.2.1), implying an obligation of the accountee to explain or justify actions or conduct (§1.2.1). The importance of mutual trust and reciprocal transparency in the accouter-accountee relationship was unmistakable;
- b) clear standards for task performance and expected conduct which the accouter has to communicate to the accountee at the onset of the account-giving relationship (§5.2.2); and
- c) the existence of appropriate consequences or sanctions that are aligned to the severity of an offence, or the neglect of accountability. It was also noted that accountability should likewise imply rewards and recognition for adhering to or surpassing required standards of performance (§5.2.3).

With regards to context and thus for purposes of this study, accountability was positioned on the foundations inherent to the law of contract (§1.4.3) of which the parameters are determined by the provisions of national labour legislation (§3.3). Sanctions are applicable where breach of contract occurs in the non-fulfilment of a legal obligation stipulated in the employment contract of the lecturer (§3.4.3). It was determined that lecturer employment contracts encompass the provisions of institutional policies, rules, regulations and codes of conduct, and are thus also relevant to the regulation of lecturer accountability (§3.4.2 & §3.4.4).

### **9.2.4.2 Lecturer teaching-related accountability**

The analysis of scholarly work on accountability in the HE context revealed a clear differentiation between external and internal accountability of the lecturer (§1.2.1). The main distinguishing feature separating the two types of accountability is the position of the accounter – either external to the institution (government, the public, prospective graduate employers, and professional bodies, §5.3) or stakeholders within the institution (institutional and faculty management, colleagues, and students, §5.4). It was established that external accountability of lecturers worldwide, regulated via national instruments such as legislation and institutional audits, comprises their answerability for teaching quality that aims for enhanced student learning and ultimately, for graduate employability and economic and social upliftment (§5.3.1).

The external accountability of the SA lecturer towards government and the SA public was of particular interest. It was evident that although national criteria for institutional audits and programme accreditation require the review of the management as well as the monitoring and support of teaching and learning quality, such requirements are void of specifying expected lecturer responsibilities and corresponding performance standards. It was concluded that such criteria are therefore not sufficient to regulate either teaching quality or lecturer accountability (§5.3.2). Moreover, it was determined that attempts by government to increase the accountability of academics through external mechanisms without appropriate sanctions often result in automated responses to appease accounters and not in increased accountability in teaching-related work (§5.3.2). Although external accountability is non-negotiable due to the significant contribution of HE to the empowerment and upliftment of the economic and social viability of a nation, it does not meaningfully regulate the teaching-related accountability of the lecturer.

The accountability of HE lecturers towards internal institutional accountees was also investigated (§5.4). It was found that lecturers are primarily accountable to students for teaching quality and corresponding student learning (§5.4.2). Furthermore, collegial and professional accountability were found to be preferable to top-down accountability mechanisms. Lecturers clearly prefer internal benchmarking and peer review to improve teaching practices, and are open to positive critique from peers since they respect the professional integrity of their colleagues. Professional accountability was also linked to the relationship of trust between the lecturer and his or her employer, often based on an employment history of ethical and professional conduct (§5.4.3). It was concluded that accountability mechanisms implemented for the purposes of enhancing the quality of

teaching and learning should therefore be developed in collaboration with academics from different disciplines who also have a focus on teaching excellence.

The final internal stakeholder identified as accounter in the teaching-related work of the lecturer, was the lecturer him or herself, more specifically his or her personal ethics and values that signify professionalism and moral commitment in academic work. The concept of felt accountability as the measure of work-related accountability experienced by an employee, was explained as it relates to the purposes of this study. Lecturer perceptions of accountability sources, accountability focus, salience and intensity were identified for its significance in the determination of lecturer felt accountability in teaching-related work (§5.4.4).

### **9.2.4.3 The teaching-related work of the HE lecturer**

Chapter 6 offered an exposition of the teaching-related work and working conditions of the HE lecturer in global context. The analysis and review of literature clearly indicated that while the teaching-related accountability of the lecturer has escalated over the past two decades, there has not been a corresponding increase in lecturer support, remuneration or professional recognition for efforts to enhance teaching quality with a view to improve student success and graduate employability (§6.2). Deteriorating working conditions such as work overload, exceedingly more diverse lecturer responsibilities, and loss of professional autonomy, were identified as having a significant negative impact on lecturer security (§6.2.2). Moreover, it was established that a national understanding of teaching quality with corresponding quality indicators such as those developed by the Australian Learning and Teaching Council (§6.2.4), would significantly impact the regulation of teaching-related accountability and the improvement of teaching and learning in the SA HE context.

It became evident that a professional code of conduct and formalised professional pedagogical development of lecturers would be of value to regulate the expected standards of conduct and subsequent standing of lecturers, and thus contribute positively to lecturer accountability and security. It was concluded that a juridical foundation for the accountability of the lecturer should include lecturer-specific conditions of work that would have a positive impact on determining a fair teaching-related workload and subsequent rewards and recognition, thereby enhancing lecturer security (§6.2.3).

Since the analysis of national and institutional determinants for lecturer accountability as offered in Chapter 3 clearly indicated a lack of clearly defined lecturer teaching-related responsibilities, while true accountability requires answerability for clear task requirements (§5.2), the final part of the chapter was dedicated to delineate the diverse teaching roles and responsibilities of the HE lecturer (§6.3). To illustrate the unique and diverse nature of the

lecturer's teaching-related work, but also the clear need for professional teaching development, a slight adaptation of the so-called twelve-roles model of Harden and Crosby (2000) was offered to delineate the six areas of responsibility of the HE lecturer, namely the lecturer as information provider, role model, facilitator, assessor, planner and resource developer. The final conclusions and recommendations from the above findings, with a view to realise the third secondary research aim, are offered in Table 9.3.

**Table 9.3: Conclusions and recommendations for secondary research aim three**

**Research aim three**

**Identify and theoretically analyse the characteristics that constitute accountability in general, and in particular the teaching-related accountability of HE lecturers.**

**The nature of accountability in general**

Accountability requires answerability of an accountee to an accouter, implying an obligation to explain or justify the measure of adherence to clear standards for task performance and expected conduct in a transparent manner. Appropriate sanctions that are aligned to the severity of an offence, or the neglect of accountability, are non-negotiable to ensure true accountability.

**The nature of lecturer teaching-related accountability**

The teaching-related accountability of the lecturer encompasses answerability to both external and internal stakeholders. External accountability requires of lecturers answerability to government, prospective graduate employers, professional bodies and the broader public for teaching quality that ultimately aims for graduate employability and economic and social upliftment. Internal accountability requires of lecturers answerability to themselves, institutional and faculty management, colleagues and students for professional and ethical conduct and continuous efforts to enhance teaching quality and corresponding student learning.

**Recommendations for development at national legislative level:**

- Government and universities should collaborate in an attempt to develop lecturer-specific minimum working conditions that will have a positive impact on determining fair teaching-related workload and subsequent rewards and recognition for teaching excellence.
- Develop a national standard that contextualises teaching quality, with corresponding quality indicators that clearly stipulate the requirements for adherence with a view to enhance student learning and graduate employability.
- Government and universities should take responsibility to improve lecturer professional status through measures such as professionalising a focused career in HE teaching, requiring continuous professional development, and adjusting remuneration befitting to such status.
- Develop and implement a model of teaching-related roles and responsibilities to articulate job specifications to be included in the employment contracts of academic staff on a teaching-oriented career path.

## **9.2.5 The empirical investigation into the accountability and security of the lecturer**

Chapters 7 and 8 were dedicated to report the process and results of the investigation into the fourth and final research sub-aim of the study, namely:

*Qualitatively analyse and interpret the perceptions of lecturers regarding their accountability in their teaching-related work, and develop understanding of the nature of their security in light of their perceived accountability.*

The findings from the empirical investigation ultimately informed the guidelines for an improved juridical foundation for lecturer accountability to enhance lecturer security. In the following sections the main conclusions and recommendations for the above research aim are presented.

### **9.2.5.1 The design of the empirical study**

With a focus on the development of in-depth understanding of the phenomena of lecturer accountability and security via the perspectives and interpretations of lecturers themselves, the employment of an inductive qualitative methodology (§7.1) from an interpretive-phenomenological perspective (§7.2) was deemed suitable. The empirical study was carried out with the highest regard for ethical concerns in data generation, data analysis and interpretation, and in the writing and dissemination of the research (§7.3, Table 7.2).

To ensure richness of descriptive data to assist with the development of depth of understanding of the concerned phenomena, twenty-four lecturers actively involved in undergraduate teaching at three different local, and one Australian university (§7.4), were purposively selected to participate in the empirical study (§7.5). Semi-structured individual and focus group interviews were employed as appropriate methods of data generation (§7.6.2). The analysis and interpretation of the interview data included a comparative component to explore lecturer accountability regulation and security protection in the Australian context with a view to inform inadequate legal provisioning for these phenomena in the SA HE environment. The most salient Australian lecturer perspectives as deemed relevant to inform the juridical foundation for lecturer accountability with a view to enhance security in the SA HE context were reported in section 9.2.3.2.

The process and methods of data analysis were clarified and motivated in Chapter 7 (§7.7). This included a clear description of the organising and preparation of the data for analysis (§7.6.2.4), the employment of Atlas.ti software to support and facilitate data analysis (§7.7.1), the lengthy coding process (§7.7.2.1), and the interpretation and theming of the data

(§7.7.2.2). The main findings from the SA lecturer perceptions on their teaching-related accountability and security are presented next.

### 9.2.5.2 Accountability and security of the SA lecturer

Chapter 8 presented the findings from the laborious processes of analysis, interpretation and abstraction of the generated data. Seven meaningful themes were eventually identified, four of which were associated with the phenomenon of lecturer accountability; while the three remaining themes were related to the phenomenon of lecturer security. It was clear that some of the findings corroborated existing knowledge on a number of the research themes related to lecturer accountability. The findings offered a clear definition for lecturer teaching-related accountability - which is noteworthy for its contribution to the phenomenon of accountability in the SA HE context (§8.3.5). The three themes that emerged for lecturer security are significant in that their integration provides a comprehensive definition of lecturer security that could not be found during the analysis of legal sources or the elaborate literature overview for this thesis (§8.4.4). This contributes substantially to the existing body of knowledge in the field of HE. The main findings are forthwith presented in Table 9.4 and Table 9.5.

**Table 9.4: Summary of main findings for South African lecturer accountability**

<b>The SA lecturers' voice on theme 1: teaching-related lecturer accountability (§8.3.1)</b>
<ul style="list-style-type: none"><li>• Lecturers perceived their teaching-related accountability to consist of answerability for teaching-related responsibilities, expected lecturer conduct, and student success (§8.3.1.1).</li><li>• They observed the diverse and time-consuming nature of their teaching responsibilities, encompassing pre-teaching, teaching and post teaching responsibilities. Teaching-related accountability is ultimately aimed at providing quality teaching and student support to enhance the quality of the student learning experience. Lecturers therefore advocated a clearer delineation of their teaching responsibilities with a view to improve the regulation of teaching workload and the enhancement of teaching quality (§8.3.1.1).</li><li>• They noted that accountability for expected conduct comprises over-emphasis on answerability for customer care and protection of student rights, and evidence of professional and ethical conduct. Their collective perspective that the student as customer is always right, and that student rights are protected to the detriment of lecturer rights, necessitates clear legal guidelines regarding the lecturer's true accountability in this regard. The value of a professional body for lecturers, a professional code of conduct, and clear sanctions if expected standards are transgressed, were highlighted (§8.3.1.2).</li></ul>

- They understood their accountability for student success to incorporate answerability for through-put rates and graduate employability. They equated such accountability to proof of the quality of their teaching and to their answerability for protecting the reputation of their respective institutions. Lecturers questioned their control over through-put rates in light of their loss of control over student access to qualifications, and the over-emphasis on student rights protection and the requirement for customer care (§8.3.1.3).
- Lecturers demonstrated a noticeable lack of knowledge and discernment of the legal foundation of accountability and its regulation in the labour context (§8.3.5).

### **The SA lecturers' voice on theme 2: essential characteristics of teaching-related accountability (§8.3.2)**

- Lecturers perceived their accountability to encompass an account-giving relationship requiring answerability for context-specific teaching-related responsibilities, expected lecturer conduct, and student success (§8.3.2) to multiple internal and external stakeholders (§8.3.2.1). Collegial and self-accountability were identified as preferable to external accountability while reciprocal transparency between management and lecturers was deemed essential to enhance accountability (§8.3.2.1.1).
- Although clear task requirements were identified as an essential element of accountability, lecturers identified current task requirements in teaching-related work as vague, whereas requirements for research were noted as explicit (§8.3.2.2). They also identified consensus for expected tasks as ambiguous yet necessary for the enhancement of their accountability (§8.3.2.2.2). Moreover, lecturers noted the absence of appropriate sanctions for neglect or rewards for adherence to accountability expectations (§8.3.2.3).

### **The SA lecturers' voice on theme 3: the origin of lecturer teaching-related accountability (§8.3.3)**

- Lecturers recognised intrinsic values and ethical codes, institutional legal sources, and sources external to the institution as originating sources for their accountability (§8.3.3).
- Institutional legal sources encompassed employment contracts, institutional policies and rules, task agreements and post level, though lecturers perceived these sources to be vague in terms of specific teaching-related accountability (§8.3.3.1).
- Likewise, external legal sources such as legislation, subordinate legislation, professional body requirements, and national needs were identified as inexplicit and distant to their teaching-related work (§8.3.3.2).

#### **The SA lecturers' voice on theme 4: mechanisms for regulation of lecturer accountability (§8.3.4)**

- Lecturers identified institutional audits, programme reviews, student evaluations, student complaints and peer review as mechanisms that regulate their teaching-related accountability (§8.3.4.1).
- Lecturers expressed their weariness of continuous institutional regulation and possible distrust in their capabilities that impact their perceived security negatively (§8.3.4.2)
- Lecturers questioned the credibility of student evaluations to measure teaching quality instead of lecturer popularity (§8.3.4.2.2).
- Student complaints were identified as a prominent yet unfair mechanism of lecturer accountability (§8.3.4.2.3).
- Lecturers perceived peer review as an appropriate and trusted mechanism to determine teaching effectiveness (§8.3.4.2.4).
- Lecturers noted the importance of an institutional culture wherein teaching was taken at least as seriously as research. Only if such a culture was prevalent would government, institutional management, and lecturers themselves take teaching-related work as seriously as they did the required outputs for research (§8.3.4).

**Table 9.5: Summary of main findings for South African lecturer security**

#### **The SA lecturer's voice on theme 5: legal security (§8.4.1)**

- Legal security refers to lecturer rights protection as afforded by the stipulations of national and institutional legal sources (§8.4.1).
- Lecturers perceived their legal security to comprise the protection of their human and labour rights, their academic freedom and fairness in administrative matters, especially in disciplinary cases. Yet they were clearly dissatisfied with the measure of their legal security and specifically with the protection of their working conditions, and noted an absence of lecturer-specific rights in their unique labour environment (§8.4.1, §8.4.1.1, §8.4.1.2, §8.4.1.3 & §8.4.1.4).
- They demonstrated a clear lack of awareness of a legal framework for the protection of their legal security, while the protection of student rights was noted as a primary concern in the HE environment (§8.4.1).
- Lecturers revealed disillusionment with the nature of protection that unions provide, and noted that institutional protective measures were biased towards the student or the institution's reputation. The importance of the role of the line manager to protect the rights of lecturers was emphasised (§8.4.1.5).

### **The SA lecturer's voice on theme 6: environmental security (§8.4.2)**

- Environmental security describes the nature of protection of lecturer working conditions, inclusive of the support that they receive to enable them to fulfil their teaching-related responsibilities effectively (§8.4.2).
- Lecturers identified job security (§8.4.2.2), institutional and collegial support, and appropriate resources as crucial to enhance environmental security, yet found these factors to be inadequate in their current work environment (§8.4.2.1).
- They maintained that rewards for teaching excellence were scarce and that promotion opportunities were primarily dependent on research outputs, negatively impacting their environmental security (§8.4.2.3).
- They associated bureaucracy (§8.4.2.4), the research vs. teaching debate (§8.4.2.5), and lecturer workload (§8.4.2.6) as factors that threaten their environmental security.
- Lecturers maintained that their status in the academe was related to their national and international recognition as discipline researchers, despite the fact that they viewed their main tasks to be the provision of quality education to deliver employable graduates (§8.4.2.5).
- Lecturers perceived their cumbersome workload and diverse responsibilities as detrimental to their well-being, job satisfaction, and environmental security (§8.4.2.6).
- They noted the value a clear delineation of their teaching-related responsibilities would have on the regulation of their workload, to determine teaching rewards, and as basis for promotion opportunities, thereby enhancing their environmental security (§8.4.2.7).
- The value of defining accountability according to different post levels was also highlighted (§8.4.2.7).

### **The SA lecturer's voice on theme 7: psychological security (§8.4.3)**

- Psychological security implies the protection of the psychological health and well-being of the lecturer and the effective management of psychological risk factors (§8.4.3).
- Forms of intimidation and harassment were identified as detrimental to lecturer psychological security (§8.4.3.5).
- Lecturers perceived the nature of over-regulation in their environment as distrust in their abilities to be effective in their work, negatively impacting their psychological security (§8.4.3.1).
- As condition for psychological security, lecturers identified personal value, closely related to respect and recognition (§8.4.3.2). Yet they received little acknowledgement or appreciation for their substantial efforts in their teaching-related work, an oversight that often contributed to low morale and feelings of not being valued.

- Job satisfaction, correlated with a passion for teaching, opportunities for personal and professional growth, collegiality, and personal value and recognition for teaching-related work, were related to the measure of lecturer psychological security (§8.4.3.3).
- The professional status of the lecturer’s work was an issue of controversy and debate, clearly linked to lecturer psychological security. Lecturers linked professional status to discipline expertise, research publications, the title of professor, and remuneration. The lack of a professional body, code of conduct, and pedagogical qualifications was identified as detrimental to lecturer professional status (§8.4.3.4).
- The definition for lecturer security that was developed from the above findings informed the guidelines to improve the existing juridical foundation for lecturer accountability (§8.4.4).

**Table 9.6: Conclusions and recommendations for secondary research aim four**

**Research aim four**

**Qualitatively analyse and interpret the perceptions of lecturers regarding their accountability in their teaching-related work, and develop understanding of the nature of their security in light of their perceived accountability.**

**How lecturers view their teaching-related accountability**

There are many similarities between lecturer perspectives of their teaching-related accountability and the definition generated from the literature overview (Chapter 5), as presented in Table 9.3. Lecturers perceive their teaching-related accountability to encompass answerability to external and internal stakeholders. External accountability requires of lecturers answerability to government, prospective graduate employers, professional bodies and the broader public for teaching quality that ultimately aims for graduate employability. Internal accountability requires of lecturers answerability to themselves, institutional and faculty management, colleagues and students for a) agreed task requirements and performance standards in pre-teaching, teaching, and post-teaching responsibilities; b) expected professional conduct; and c) student success.

**Lecturer perceptions on the nature of their security**

Lecturer security in a professional employment context encompasses a) legal security in terms of an adequate national and institutional legal framework for lecturer rights protection; b) environmental security in terms of effective strategies to retain, recognise, professionally develop and adequately support the academic workforce while ensuring the regulation of fair minimum working conditions specific to the unique nature of the lecturer’s work; and c) psychological security in terms of the protection of lecturer psychological health and well-being through professional recognition and the enhancement of personal value, respect, trust and overall job satisfaction.

When lecturers experience satisfactory legal, environmental and psychological security, they will be secure in their professional identity and committed to act in an accountable manner.

## **Recommendations for development at national legislative level:**

### **Accountability:**

- Government and institutions should collaborate to develop a sound legislative framework for lecturer accountability, inclusive of a clear definition of teaching quality and a clear delineation of teaching responsibilities with corresponding accountability standards at different post levels that can be contextualised at institutional level.
- Develop a transparent student rights charter, which can delineate the lecturer's true accountability for student rights protection and customer care.
- Establish a professional body to secure the professional status of the lecturer. This requires the development of a national code of professional conduct for lecturers and the determination of minimum qualifications in both the discipline and pedagogy and/or a requirement for continuous professional development in HE teaching. Consider an internship for beginner lecturers.
- Develop scientifically standardised student evaluation mechanisms of which the results can be utilised in a controlled feedback loop to inform teaching practices that are in need of development with a view to enhance student learning.
- Develop a fair and transparent mechanism of rigorous peer review for lecturer accountability regulation in teaching practices.
- Use the comprehensive definition of the teaching-related accountability of the lecturer that emerged from the data interpretation as guideline to improve the existing juridical foundation for lecturer accountability.

### **Security:**

- Develop a clear delineation of the legal rights that lecturers are entitled to. Such an instrument should be implemented at institutional level together with a focused awareness campaign to familiarise lecturers with their rights, and with the avenues they have for protection when they experience an infringement on their rights.
- Define the nature of academic freedom as relevant to the SA HE context.
- Employment contracts of lecturers should include the teaching-related responsibilities of lecturers associated with different post levels and the support and resources that are within the budget and ability of an institution to provide.
- Develop appropriate minimum conditions of employment specific to the unique work environment of the lecturer, with a focus on the regulation of workload and recognition to enhance lecturer environmental and psychological security.
- Develop appropriate and transparent criteria for a HE teaching-oriented career path and thus professional recognition for lecturers with a focus on teaching excellence and scholarship.

### 9.3 GUIDELINES TO IMPROVE THE EXISTING JURIDICAL FOUNDATION

At the onset of this study I noted that my ultimate aim was to generate a set of guidelines that would improve the existing juridical foundation for teaching-related accountability and thus enhance the security of the lecturer in the SA HE context (§1.5). In realisation of this primary research aim, the recommendations that I presented on the strength of the conclusions of each of the four secondary research aims (Table 9.1 to Table 9.6) are subsequently integrated into twelve succinct guidelines. I thus advocate that the implementation of these guidelines will improve the regulation of the internal and external teaching-related accountability of HE lecturers effectively, which in turn, will enhance their security in their professional employment context.

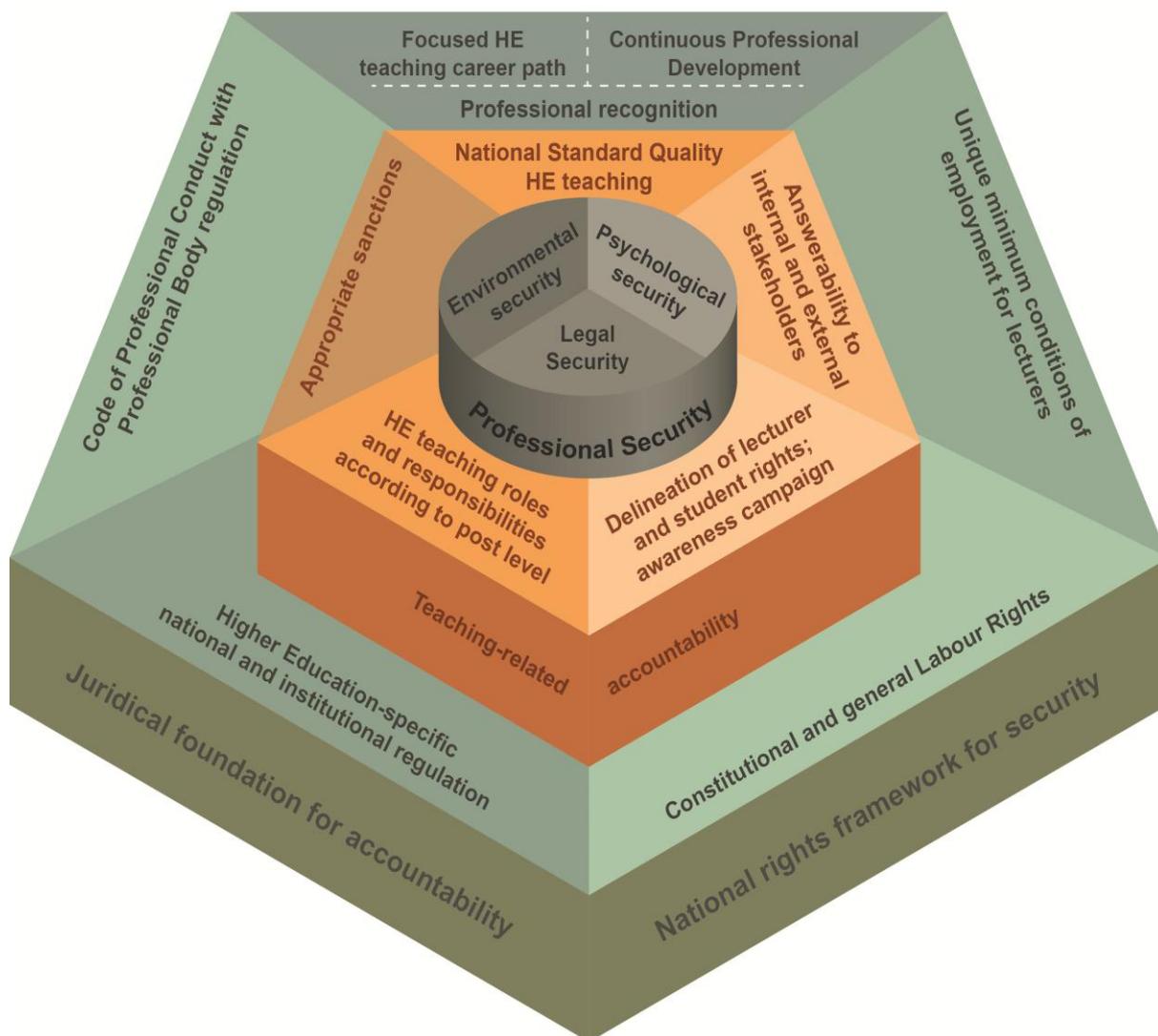
I acknowledge that the simultaneous implementation of all or most of the given guidelines at national level is overly optimistic for the near future, however much these guidelines would improve the juridical foundation as presented in Figure 9.1. Since national implementation is an ideal for the future, I advocate that in the interim, a number of these guidelines (guidelines 2, 3, 4, 5 and 10) should be taken on advisement for implementation at institutional level without formal amendments to existing national legislation. Ultimately though, isolated institutional policy initiatives will not be as effective as when these guidelines are promulgated at national level. The guidelines thus set an objective national standard still to be interpreted and implemented within each unique institutional context.

With a view to establish an improved national juridical foundation for lecturer accountability to enhance lecturers' security in their professional context, the subsequent guidelines will require of the SA Department of Higher Education and Training to collaborate with HE institutions and teaching scholars to:

- 1) develop a national standard for quality teaching for enhanced student learning and graduate employability, with corresponding quality indicators to be used as criteria in rigorous peer review to determine HE teaching excellence and corresponding rewards;
- 2) develop a clear delineation of teaching-related roles and responsibilities, articulated for different post levels, that can be contextualised in lecturer employment contracts that will fit the concerned institutional mission and budget allocation for academic support and resources;
- 3) delineate the legal rights of lecturers in their work environment in an organised framework and implement a focused awareness campaign to familiarise them with their rights, and with the avenues they have for protection when they experience an infringement on their rights;

- 4) develop a transparent student rights charter that will reflect the lecturer's true accountability for student rights protection and customer care;
- 5) develop scientifically standardised student evaluation mechanisms to assess the quality of teaching practices in different disciplines, of which the results can be utilised in a controlled feedback loop to inform teaching practices that are in need of development with a view to enhance student learning;
- 6) develop and establish an alternative professional teaching-oriented career path parallel to that of academic researcher in an effort to facilitate capacity building in the HE sector, thereby affording equal official professional status and recognition with appropriate remuneration to academics following a teaching career path that requires continuous professional development;
- 7) develop unique minimum conditions of employment for lecturers in the academic profession following a HE teaching-oriented career path, with a focus on fair workload and adequate national and institutional support to fulfil their teaching-related responsibilities effectively;
- 8) develop a national code of professional conduct for HE lecturers as addendum to the Higher Education Act (101/1997);
- 9) establish a professional body for HE lecturers to secure their professional status, which should regulate minimum required qualifications and/or continuous professional development in HE teaching, with consideration of an appropriate internship for beginner lecturers;
- 10) develop an induction strategy for new lecturers regarding their teaching-related responsibilities and their constitutional and labour rights, and develop a corresponding module that lecturers are obligated to complete within the first three months of appointment;
- 11) define the nature of academic freedom clearly as relevant to the SA HE context; and
- 12) develop a national financial strategy to fund, reward and steer teaching innovations with a view to enhance student learning and graduate employability.

It is posited that the above guidelines will substantially improve the existing juridical foundation for lecturer teaching-related accountability (comprising the SA Constitutional framework, general labour and Higher Education legal regulation) and subsequently provide SA lecturers with adequate professional security and professional identity to retain and expand the country's essential academic workforce. The improved juridical foundation for accountability that will most assuredly enhance the security of the Higher Education lecturer in South Africa is presented in Figure 9.1.



**Figure 9.1: A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa**

As illustrated in Figure 9.1, the juridical foundation for lecturer teaching-related accountability requires improvement or elaboration at two different levels (tiers 1 and 2) with a view to enhance lecturer professional security presented as the third and top tier in the figure, comprising legal, environmental and psychological security. The first tier of the juridical foundation comprises the existing constitutional and general labour rights framework, as well as HE-specific national and institutional accountability regulation. As proposed by guidelines 6 to 9, three elements are added to enhance lecturer security: (i) a focused alternative professional career path, requiring continuous professional development opportunities, affording official professional recognition (guideline 6); (ii) unique minimum conditions of

employment for lecturers following a HE teaching-oriented career path (guideline 7); (iii) a national Code of Professional Conduct for HE lecturers as addendum to the Higher Education Act (guideline 8), underpinned by the establishment of a professional body for HE lecturers to secure their professional status (guideline 9). Guideline 11 is also applicable at this level in that the nature of lecturer academic freedom as a constitutional right should be more clearly defined for the SA HE context.

At the second level, comprising the elements that feature in the definition of lecturer teaching-related accountability (Table 9.4), guidelines 1 to 5 and 10 are relevant to ensure that lecturers know and understand their internal and external accountability expectations, their own rights, and the rights of students that must be protected. It is posited that such knowledge and understanding will enhance professional security since lecturers will not only know what is expected of them, but also what the institutional sanctions for neglect of their accountability entail.

This concludes the research into the teaching-related accountability of HE lecturers with a view to enhance their security in their professional employment context. Subsequently the recommendations for future research and the significant contribution of this study are offered.

#### **9.4 RECOMMENDATIONS FOR FUTURE RESEARCH**

The following research is recommended as follow-up to the concluded study:

- a) In terms of the professionalisation of HE teaching, research to investigate whether, and to what extent a HE teaching qualification, with or without an internship for newly appointed lecturers, would improve not only the lecturer's teaching prowess, but also student learning.
- b) Professionalisation of HE teaching would also benefit from further research into the nature of an annual developmental cycle (continuous professional development) of teaching competence, similar to that of pharmacists, doctors and other professional careers.
- c) An investigation into the nature of academic freedom as relevant to the South African HE context to minimise external and internal threats to this constitutional right.
- d) Research into finding a balance between institutional autonomy, academic freedom and public accountability of HE institutions and academics in the South African context.
- e) A more comprehensive (thus not limited to a narrow selection of HE institutions) national overview and comparative analysis of lecturer employment security and other relevant legal issues.

## 9.5 CONTRIBUTION OF THE RESEARCH

In terms of the substance of this study, I am convinced that much more was gained than had initially been anticipated in section 1.7. The findings and conclusions of this project, which formed part of the NRF-project (NWU-00018-11-A2): “*An education law perspective on educator rights and educator security within a changing education environment,*” contributes significantly to the building of innovative theory in a new field of Education Law in the South African Higher Education context, namely Higher Education Law. This study did not only elaborate on and enhance the body of knowledge and understanding relating to the Higher Education environment, but also identified and eventually addressed the lacuna within South African national legislation that governs the conduct and teaching-related accountability of the lecturer. Ultimately, the guidelines to improve the juridical foundation for accountability of the South African lecturer provides Higher Education institutions, as well as the national Department of Higher Education and Training, with a solid foundation on which to base the development of a national legal framework for lecturer teaching-related accountability and labour rights, thereby enhancing their security in the workplace.

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## **ADDENDA TO THESIS**

- Addendum 1.1: The NWU Ethics Certificate
- Addendum 7.1: Example of research permission letter to Institutional Registrar
- Addendum 7.2: Example of research permission letter to Faculty Dean
- Addendum 7.3: Example of participant letter of consent
- Addendum 7.4: The interview schedule
- Addendum 7.5: Example of a final interview transcript
- Addendum 7.6: The final code list
- Addendum 7.7: The participant background questionnaire

## Addendum 1.1: The NWU Ethics certificate



Private Bag X6001, Potchefstroom  
South Africa 2520

Tel: (018) 299-4900  
Faks: (018) 299-4910  
Web: <http://www.nwu.ac.za>

Ethics Committee  
Tel +27 18 299 4849  
Email [Ethics@nwu.ac.za](mailto:Ethics@nwu.ac.za)

### ETHICS APPROVAL OF PROJECT

The North-West University Research Ethics Regulatory Committee (NWU-RERC) hereby approves your project as indicated below. This implies that the NWU-RERC grants its permission that provided the special conditions specified below are met and pending any other authorisation that may be necessary, the project may be initiated, using the ethics number below.

<b>Project title:</b> An education law perspective on educator rights and educator security within a changing education environment																															
<b>Project Leader:</b>	Prof. J Rossouw																														
<b>Student:</b>	F Bothma																														
<b>Sub-project title:</b> A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa																															
<b>Ethics number:</b>	<table border="1"><tr><td>N</td><td>W</td><td>U</td><td>-</td><td>0</td><td>0</td><td>0</td><td>1</td><td>8</td><td>-</td><td>1</td><td>1</td><td>-</td><td>A</td><td>2</td></tr><tr><td colspan="3">Institution</td><td colspan="5">Project Number</td><td colspan="2">Year</td><td colspan="5">Status</td></tr></table> <small>Status: B = Submission; R = Re-Submission; P = Provisional Authorisation; A = Authorisation</small>	N	W	U	-	0	0	0	1	8	-	1	1	-	A	2	Institution			Project Number					Year		Status				
N	W	U	-	0	0	0	1	8	-	1	1	-	A	2																	
Institution			Project Number					Year		Status																					
<b>Approval date:</b>	2014/03/20																														
<b>Expiry date:</b>	2016-03-17																														

Special conditions of the approval (if any): Alteration to the consent form must be made - as was specified in the minutes of the Research Ethics Committee of the Faculty of Education Sciences on 20/03/2014.

#### General conditions:

While this ethics approval is subject to all declarations, undertakings and agreements incorporated and signed in the application form, please note the following:

- The project leader (principle investigator) must report in the prescribed format to the NWU-RERC:
  - annually (or as otherwise requested) on the progress of the project,
  - without any delay in case of any adverse event (or any matter that interrupts sound ethical principles) during the course of the project.
- The approval applies strictly to the protocol as stipulated in the application form. Would any changes to the protocol be deemed necessary during the course of the project, the project leader must apply for approval of these changes at the NWU-RERC. Would there be deviated from the project protocol without the necessary approval of such changes, the ethics approval is immediately and automatically forfeited.
- The date of approval indicates the first date that the project may be started. Would the project have to continue after the expiry date, a new application must be made to the NWU-RERC and new approval received before or on the expiry date.
- In the interest of ethical responsibility the NWU-RERC retains the right to:
  - request access to any information or data at any time during the course or after completion of the project;
  - withdraw or postpone approval if:
    - any unethical principles or practices of the project are revealed or suspected,
    - it becomes apparent that any relevant information was withheld from the NWU-RERC or that information has been false or misrepresented,
    - the required annual report and reporting of adverse events was not done timely and accurately,
    - new institutional rules, national legislation or international conventions deem it necessary.

The Ethics Committee would like to remain at your service as scientist and researcher, and wishes you well with your project. Please do not hesitate to contact the Ethics Committee for any further enquiries or requests for assistance.

Yours sincerely

Linda du Plessis

Digitally signed by Linda du Plessis  
DN: cn=Linda du Plessis, o=NWU,  
Vest Tielenge Campus, ou=Vice-  
Rector: Academic,  
email=linda.duplessis@nwu.ac.za,  
c=ZS  
Date: 2015.04.16 16:05:12 +0200

Prof Linda du Plessis

Chair NWU Research Ethics Regulatory Committee (RERC)

## Addendum 7.1: Example of research permission letter to Institutional Registrar



Education and  
Human Rights  
in diversity



NORTH-WEST UNIVERSITY  
YUNIBESITHI YA BOKONE-BOPHIRIMA  
NOORDWES-UNIVERSITEIT

1 April 2014

### **Student**

Mrs F Bothma  
Academic Development and Support  
North-West University  
Potchefstroom campus  
Cell: 082 887 7661  
[franciska.bothma@nwu.ac.za](mailto:franciska.bothma@nwu.ac.za)

### **Project Leader**

Prof JP Rossouw  
Faculty of Education Sciences  
North-West University  
Private Bag X6001  
Potchefstroom  
[jp.rossouw@nwu.ac.za](mailto:jp.rossouw@nwu.ac.za)

ATTENTION:  
The Registrar  
*Concerned address*

### **REGARDING: PERMISSION TO CONDUCT RESEARCH**

Dear \_\_\_\_\_

I am currently enrolled as a student for the PhD degree in Education Law at the North-West University. My research is a subproject within the NRF-funded project under the title of Educator Rights and Educator Security, of which Prof JP Rossouw is the project leader and also my promoter. Ethics clearance for the overarching project has been granted by the North-West University under the number NWU-00018-11-A2, and my subproject was approved on the 20th of March 2014.

The main objective of the overarching project is to gain, through empirical investigation and comprehensive literature and legal analyses, insight into selected elements of educator rights and security. My research is the first subproject in the overarching project wherein the focus shifts from the rights and security of the public school educator to the rights and security of the Higher Education (HE) lecturer. With a view to determine the regulation of lecturer accountability and the measure of protection of lecturer security in the South African HE environment, an initial review of relevant national sources of law revealed that there exists a basic juridical foundation with:

- sufficient regulation and quality assurance of the broader HE system and clear expectations for institutional governance and external accountability of HE providers;
- sufficient regulation of the general SA labour environment to provide general guidelines for fair labour practices, employee rights and minimum conditions of employment, also pertaining to the employment of lecturers.

Yet, a clear lacuna exists in terms of HE-specific national guidelines and regulation for the teaching-related accountability, expected conduct and security of the SA lecturer.

I hereby apply to your office to conduct a part of the empirical research at your institution in three different faculties. The title of my PhD thesis is: **A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa**. The study primarily aims at presenting a comprehensive understanding of the nature of both the teaching-related accountability and the security of the lecturer, and at eventually generating guidelines to improve the existing juridical foundation for accountability that will ultimately enhance lecturer security in the South African Higher Education context.

The following secondary aims will focus the investigation to realise the primary aim:

- Determine how South African national and institutional sources of law regulate accountability and expected conduct, and provide for the protection of the rights and security of HE lecturers.
- Determine how a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct and rights of the lecturer can inform the guidelines for an improved juridical foundation for accountability to enhance the security of the South African lecturer.
- Identify and theoretically analyse the characteristics that constitute accountability in general, and in particular the teaching-related accountability of HE lecturers.
- Qualitatively analyse and interpret the perceptions of lecturers regarding their accountability in their teaching-related work, and develop understanding of the nature of their security in light of their perceived accountability.

It is important to note that this study in no way aims to compromise the academic freedom of HE lecturers, nor to defer decisions with regards to the appointment of lecturers or the discipline content of qualifications, selection of appropriate study materials or teaching and assessment approaches, to any external body. In an ever-changing and increasingly more demanding HE environment, the focus is on generating guidelines to improve the existing juridical foundation for lecturer accountability as a point of reference for the protection of lecturer rights and for the framing of teaching-related responsibilities and expected conduct with a view to enhance lecturer security. Such a focus should provide guidelines to the DHET, institutions and faculties as to what the teaching-related accountability that a lecturer should account for entails, what kind of support lecturers need to be effective in their teaching-related work, and which rights should be protected to ensure that they experience their employment environment as supportive, safe and secure.

Data will be gathered via document analysis of relevant national higher education and labour legislation as well as institutional policy documentation and regulations. National legislation is part of the public domain and thus available for analysis without prior consent. Most of your institutional policy documents and regulations relevant to this study are also part of the public domain. I want to request consent to liaise with you or someone at your office to gain access to other possible policy documentation that may be of significance to my analysis of the stipulated rights and responsibilities of lecturers at your institution. I would like to emphasise that the focus of my study is to indicate that the

identified lacuna in terms of a lack of stipulated accountability and lecturer security is at national legislative level and not at institutional level.

For the empirical research I would like to involve two lecturers from each of the following Faculties: Education, Health Sciences and Law. I would like to conduct a personal, semi-structured interview of maximum 60 minutes with each of the 6 selected participants, and undertake not to disrupt the programmes or interfere with the regular duties of any of your staff members. After completion and at your request, I undertake to provide you with feedback of the results of the interviews conducted at your Institution. I will also gain permission from the respective three Faculty Deans and the selected participants before proceeding with any data collection activity.

I would like to assure you of the following ethical considerations:

- The participants will not feel threatened or intimidated, and will not be pressurised to answer any specific question on a matter that they might regard as confidential.
- The anonymity of your Institution and of the participants, and confidentiality of the data generated and the results, are of the utmost concern and will be emphasised and confirmed.
- Participation is voluntary and optional. Participants will be informed beforehand that they may withdraw at any stage during the interviews. Precautionary measures will be taken to ensure that participants will not feel upset or uncomfortable and that their rights to privacy or dignity will not be infringed during the interviews.

The nature of the research design and the chosen methods for data collection render this project to be regarded as one where the element of risk is low. I can further assure you that the data gathered will only be used for scientific purposes.

Thank you for considering my request and I hope to hear from you forthwith.

With kind regards



Franciska Bothma

## Addendum 7.2: Example of research permission letter to Faculty Dean



Education and  
Human Rights  
in diversity



12 April 2014

### **Student**

Mrs F Bothma  
Academic Development and Support  
North-West University  
Potchefstroom campus  
Cell: 082 887 7661  
[franciska.bothma@nwu.ac.za](mailto:franciska.bothma@nwu.ac.za)

### **Project Leader**

Prof JP Rossouw  
Faculty of Education Sciences  
North-West University  
Private Bag X6001  
Potchefstroom  
[jp.rossouw@nwu.ac.za](mailto:jp.rossouw@nwu.ac.za)

ATTENTION:  
Executive Dean  
Faculty of \_\_\_\_\_  
*Concerned address*

### **REGARDING: PERMISSION TO CONDUCT RESEARCH**

Dear \_\_\_\_\_

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- sufficient regulation and quality assurance of the broader HE system and clear expectations for institutional governance and external accountability of HE providers;
- sufficient regulation of the general SA labour environment to provide general guidelines for fair labour practices, employee rights and minimum conditions of employment, also pertaining to the employment of lecturers.

Yet, a clear lacuna exists in terms of HE-specific national guidelines and regulation for the teaching-related accountability, expected conduct and security of the SA lecturer.

I hereby apply to your office to conduct a part of the empirical research in your faculty. I have already obtained permission from your Institutional Registrar to conduct a part of my empirical study at your institution. The title of my PhD thesis is: **A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa**. The study primarily aims at presenting a comprehensive understanding of the nature of both the teaching-related accountability and the security of the lecturer, and at eventually generating guidelines to improve the existing juridical foundation for accountability that will ultimately enhance lecturer security in the South African Higher Education context.

The following secondary aims will focus the investigation to realise the primary aim:

- Determine how South African national and institutional sources of law regulate accountability and expected conduct, and provide for the protection of the rights and security of HE lecturers.
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- Qualitatively analyse and interpret the perceptions of lecturers regarding their accountability in their teaching-related work, and develop understanding of the nature of their security in light of their perceived accountability.

It is important to note that this study in no way aims to compromise the academic freedom of HE lecturers, nor to defer decisions with regards to the appointment of lecturers or the discipline content of qualifications, selection of appropriate study materials or teaching and assessment approaches, to any external body. In an ever-changing and increasingly more demanding HE environment, the focus is on generating guidelines to improve the existing juridical foundation for lecturer accountability as a point of reference for the protection of lecturer rights and for the framing of teaching-related responsibilities and expected conduct with a view to enhance lecturer security. Such a focus should provide guidelines to the DHET, institutions and faculties as to what the teaching-related accountability entails that a lecturer should account for entails, what kind of support lecturers need to be effective in their teaching-related work, and which rights should be protected to ensure that they experience their employment environment as supportive, safe and secure.

For the empirical research I would like to involve six lecturers from your Faculty and would be most appreciative if you could assist me with the identification of possible participants. I plan to conduct a personal, semi-structured interview of maximum 60 minutes with each of the six selected participants, and undertake not to disrupt the programmes or interfere with the regular duties of any of your staff

members. After completion and at your request, I undertake to provide you with feedback of the results of the interview conducted at your specific Faculty. I will also gain permission from the selected participants before proceeding with any data collection activity.

I would like to assure you of the following ethical considerations:

- The participants will not feel threatened or intimidated, and will not be pressurised to answer any specific question on a matter that they might regard as confidential.
- The anonymity of your Institution and of the participants, and confidentiality of the data generated and the results, are of the utmost concern and will be emphasised and confirmed.
- Participation is voluntary and optional. Participants will be informed beforehand that they may withdraw at any stage during the interviews. Precautionary measures will be taken to ensure that participants will not feel upset or uncomfortable and that their rights to privacy or dignity will not be infringed during the interviews.

The nature of the research design and the chosen methods for data collection render this project to be regarded as one where the element of risk is low. I can further assure you that the data gathered will only be used for scientific purposes.

Thank you for considering my request and I hope to hear from you forthwith.

With kind regards

A handwritten signature in cursive script, appearing to read 'Franciska Bothma', written in black ink.

Franciska Bothma

## Addendum 7.3: Example of participant letter of consent



20 April 2014

### **Student**

Mrs F Bothma  
Academic Development and Support  
North-West University  
Potchefstroom campus  
Cell: 082 887 7661  
[franciska.bothma@nwu.ac.za](mailto:franciska.bothma@nwu.ac.za)

### **Project Leader**

Prof JP Rossouw  
Faculty of Education Sciences  
North-West University  
Private Bag X6001  
Potchefstroom  
[jp.rossouw@nwu.ac.za](mailto:jp.rossouw@nwu.ac.za)

### **REGARDING: CONSENT FOR PARTICIPATION IN RESEARCH**

Dear \_\_\_\_\_

I am currently enrolled as a student for the PhD degree in Education Law at the North-West University. My research is a subproject within the NRF-funded project under the title of Educator Rights and Educator Security, of which Prof JP Rossouw is the project leader and also my promoter. Ethics clearance for the overarching project has been granted by the North-West University under the number NWU-00018-11-A2, and my subproject was approved on the 20th of March 2014.

The main objective of the overarching project is to gain, through empirical investigation and comprehensive literature and legal analyses, insight into selected elements of educator rights and security. My research is the first subproject in the overarching project wherein the focus shifts from the rights and security of the public school educator to the rights and security of the Higher Education (HE) lecturer. With a view to determine the regulation of lecturer accountability and the measure of protection of lecturer security in the South African HE environment, an initial review of relevant national sources of law revealed that there exists a basic juridical foundation with:

- sufficient regulation and quality assurance of the broader HE system and clear expectations for institutional governance and external accountability of HE providers;
- sufficient regulation of the general SA labour environment to provide general guidelines for fair labour practices, employee rights and minimum conditions of employment, also pertaining to the employment of lecturers.

Yet, a clear lacuna exists in terms of HE-specific national guidelines and regulation for the teaching-related accountability, expected conduct and security of the SA lecturer.

As I have already obtained permission from your Dean to conduct a part of my empirical study in your Faculty, I hereby invite you to take part in the research. The title of my thesis is: **A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South**

**Africa.** The study primarily aims at presenting a comprehensive understanding of the nature of both the teaching-related accountability and the security of the lecturer, and at eventually generating guidelines to improve the existing juridical foundation for accountability that will ultimately enhance lecturer security in the South African Higher Education context.

The following secondary aims will focus the investigation to realise the primary aim:

- Determine how South African national and institutional sources of law regulate accountability and expected conduct, and provide for the protection of the rights and security of HE lecturers.
- Determine how a selection of Australian sources of law and the perspectives of a sample of Australian lecturers on the teaching-related accountability, expected conduct and rights of the lecturer can inform the guidelines for an improved juridical foundation for accountability to enhance the security of the South African lecturer.
- Identify and theoretically analyse the characteristics that constitute accountability in general, and in particular the teaching-related accountability of HE lecturers.
- Qualitatively analyse and interpret the perceptions of lecturers regarding their accountability in their teaching-related work, and develop understanding of the nature of their security in light of their perceived accountability.

It is important to note that this study in no way aims to compromise the academic freedom of HE lecturers, nor to defer decisions with regards to the appointment of lecturers or the discipline content of qualifications, selection of appropriate study materials or teaching and assessment approaches, to any external body. In an ever-changing and increasingly more demanding HE environment, the focus is on generating guidelines to improve the existing juridical foundation for lecturer accountability as a point of reference for the protection of lecturer rights and for the framing of teaching-related responsibilities and expected conduct with a view to enhance lecturer security. Such a focus should provide guidelines to the DHET, institutions and faculties as to what the teaching-related accountability that a lecturer should account for entails, what kind of support lecturers need to be effective in their teaching-related work, and which rights should be protected to ensure that they experience their employment environment as supportive, safe and secure.

For the empirical research I would like to request that you take part in a semi-structured individual interview of maximum 60 minutes, and I undertake not to disrupt your programmes or interfere with any of your regular duties. After completion and at your request, I undertake to provide you with feedback of the results of the interviews conducted at your specific Institution.

I would like to assure you of the following ethical considerations:

- The interview will be conducted at a time that is convenient for you, and a place where you feel most comfortable.
- You will not feel threatened or intimidated, and will not be pressurised to answer any specific question on a matter that you may regard as confidential.
- Your anonymity, and the confidentiality of results, will be guaranteed.

- Participation is voluntary and optional and you may withdraw at any stage during the interview without having to state a reason.
- I will send your transcript to you via email so that you can check the accuracy of the transcription.

The nature of the research design and the chosen methods for data collection render this project to be regarded as one where the element of risk is low. I can further assure you that the data gathered will only be used for scientific purposes.

If you are satisfied, adequately informed about the purpose and aims of the research, and willing to participate, please read and sign the informed consent attached hereto.

Thank you for considering my request and I hope to hear from you forthwith.

With kind regards

A handwritten signature in cursive script, appearing to read 'Franciska Bothma'.

Franciska Bothma

## Addendum 7.4: The interview schedule



### **A juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa**

#### **Interview schedule for HE lecturers**

##### **Section A: The teaching-related responsibilities of the HE lecturer**

1. What are your teaching-related responsibilities?
2. What is the origin of these responsibilities?
3. What happens if a lecturer does not carry out his or her responsibilities?

##### **Section B: The professional status of the HE lecturer**

4. How do you perceive the professional status of your work as a lecturer?
5. What is the origin of your professional status?

##### **Section C: The accountability of the HE lecturer**

6. How will you define accountability in your work environment?
7. Will a clear delineation of your accountability in your teaching-related work be to your benefit or detriment? Motivate your point of view.

##### **Section D: The rights and security of the HE lecturer**

8. What are your rights in your work environment?
9. How will you define security in your work environment?
10. How, by whom, or by what are your rights protected in your work environment?

## Addendum 7.5: Example of a final interview transcript

**B (12-05-2014)**

F: Thank you for participating in this empirical study. I'm going to ask you 10 questions divided into 4 overarching categories. I want you to understand that the questions do not relate to the research activities of the lecturer, but only to the teaching-related duties and responsibilities and rights of lecturers in higher education. That's what we are going to focus on. The first category of questions relate to the teaching-related responsibilities of the HE lecturer. Can you tell me what your teaching-related responsibilities are?

B: My primary responsibility is the imparting of knowledge and facilitating the learning of my students, to make sure that students learn how to use their knowledge in the practice of law. It depends on the nature of the module as to what teaching method you use, and whether you focus more on knowledge teaching than on facilitating learning. So in my case it would be to prick an interest in the profession that they want to enter as well as teaching the basics. This means you have to prepare diligently and focus on teaching with a view to ensure that students master the set outcomes. We do get lots of pressure to get students to pass from the powers that be – is it a core module or another module not so important to the student. It also means that just as you get pressured to get the pass rate higher than 70%, you also get flack when it does get to more than 80% because then they say it's too high and your assessments must then be too easy (*said laughingly*). So I think it is a no win situation. How do you get the balance just right? And all I really want to do is to make sure that my students understand my subject and know how to use what they learn in the practice of law. And I don't think it's fair to judge a person's ability looking at the pass rate of your students. Because the type of students you deal with are so diverse. Some of them are really prepared for university, and others won't be prepared for university even after their second or third year of study. And that brings us to the assessment responsibilities, which are huge. Everything you do in terms of assessment is scrutinised. Everything is moderated and checked for standards – to see if your assessments are too difficult or too easy. And then I'm not only talking about summative assessments. The formative assessments are just as, or even more, time consuming. So assessment is a huge part of my teaching responsibilities. Of course you have all the necessary preparation for classes before you can teach. That actually takes up more time than the actual teaching itself. And all the students who ask for help before or after classes add to your workload. But that's part of my job that I love – the interaction with the students, especially those who really want to learn and come with relevant questions. I know that there is a great debate regarding workload of academics. I think it depends on how you look at it. I, because I lecture every day and I have 390 students, my workload in respect of teaching and assessing is much higher than someone who has an elective module and say, only 20 students in their class. But probably that person's task agreement would require more research outputs. I know that my research output usually falls a bit behind because it takes time for me to do a good job preparing for classes, preparing effective interaction opportunities in class, and the technology and methods that you're going to use etc. So the research and my own study take a bit of a back burner to lecturing. If anyone tries to convince me that teaching is only supposed to take up

40% of my day or my workload, I'd say they're kidding. That split for research teaching and admin or service – doesn't truly reflect my workload. And also added to that workload is the committee work, the national projects and things like that, the conferences and paper presentations. I can honestly tell you that I do work more many more hours than the supposed 40 hours a week. Unfortunately, since research is the be all and end all of the academe, something's gotta give, and it's usually the teaching!

**F: And your preference if you could decide whether you would spend your time teaching or doing research?**

B: If I had a choice, I'll focus on the teaching! Or... well... that would probably depend on the day. If I had a bad teaching day and the students really tested my patience, I'd probably say I'd rather do research (*said laughingly*). But I think if I had to be honest I'd rather teach than do research.

**F: Yet do you find the rewards for teaching to be sufficient?**

B: I think that career wise you can be the best lecturer under the sun – it's not going to get you anywhere unless you have that magic X-number of publications. And then not in any old journal, but in accredited journals, which poses more problems for us in law, because if you start researching in niche fields the number of accredited law journals are not very high, which then has a repercussion on your NRF rating, which then affects your ability to be promoted. Bad cycle, and I don't see any way out of it. But then, with regards to rewards in another sense... first of all there is little as rewarding as seeing the final product of your work, and I'm talking about students who are successful, students who appreciate your efforts and who really excel in your subjects. I think that having come from practice I look at it a little bit differently in the sense that when you practice law you don't always see the final product of your work, and even when you do deliver this amazing product, there's always negativity revolved around it... because someone always loses. A bit like here with the through-put – 80% is too high and 60% is too low. But for me it's a personal thing 'cause you can watch the students grow and you can see the impact that you have on the student from day one to the end of the semester or end of the year. It's that personal growth that you see and you know that it's the amount of time you invested that influenced that group of students. There's personal reward in it for me even if not remuneration or promotion. I don't know if that will always be enough, but currently that gives me a thrill.

**F: That's wonderful to hear! Thank you for your candour. Can you maybe share with me the origin of your teaching-related responsibilities?**

B: With regards to the broad foundation for our accountability, I guess national legislation should give some kind of guidance, though I don't know how (*said laughingly*). With regards to what modules I teach, that is determined by the faculty management and the director of teaching and learning. And I think the needs of faculty and of a specific student cohort will probably dictate. More students, more modules. More diversity, more electives and so on. This is the first year that I've actually received my very own module to teach without sharing it. My subject is now my subject... I'm not sure it's going to remain that way... But I hope so. Then I also have an employment contract – in it is stated my minimum conditions of employment, and those will be related to what is required in the LRA. I guess when it comes to my working hours the university decides. They require me to be at the office a

certain number of hours, although it's mostly flexible and they require hours of lecturing. But how you teach and assess and what technologies you use and so on, that's determined to a large extent by current practices in higher education, by the university's teaching philosophy, by the guidelines of academic support services and the policies of the university that they implement. I guess that is to a very large extent what the faculty uses as a sounding board in the quality of teaching. There should be a stronger focus on what quality in teaching actually entails, not only in faculties, but across the institution. I don't know if that actually exists. But faculty rules and regulations also apply, but that's mostly inferred from institutional documents. I'm a bit perplexed that institutional policy can dictate how we are allowed to assess, like number of assessments and even what is deemed valid assessments. In my view - the way we have to assess by allocating mark for mark to show students what they score on each question, that kills analytical and critical skills that are essential to development of good lawyers, because they don't need to really think, but just need to state the right facts. And I've been saying this for a few years! Probably contentious, but anyway...I firmly believe that teaching and assessing law cannot follow the same format to the T as other faculties do. Each faculty actually needs its own format – from the way we teach and assess – I believe we should have our own standards. Policies are usually general in nature, but they can be restrictive. Sometimes regulation is good, but at other times regulation can lead to unnecessary restriction of creativity and that will lead to monotony. I believe regulation is only valid or effective if it upholds a standard that is beneficial to all who are being regulated. And sometimes all policy does is to dictate the restrictions in order to manage administrative requirements.

**F: So you feel then that assessment actually dictates your teaching responsibilities? Can you elaborate on this?**

B: To a certain extent you sometimes do feel stifled. To a large extent what you're assessing and how you assess will dictate how you teach. Again it depends on the module... maybe it's because I feel confined. Different from practice I feel it's within a very formalistic institution that says to you this is how you will do it and when you deal with procrastination to change it makes it difficult. You want to change your teaching method, you will get support from one area but the other area will say to you NO and being the younger colleague I feel that I have to follow this traditional method. Often I think that we just have to have a mind-set change. With assessment you do feel that this is just the way you have to do it because if you send in a memo that says that marks will be allocated accordingly you will be called in and told that your memo does not comply with quality assurance or whatever and you need to go and specify mark for mark and you literally have to write the essay and show what you expect because God forbid you die and someone must take your place and don't know how to assess. But it shouldn't be that way. There should be a contingency plan of sorts. Someone should be able to stand in. So I do think to a large extent that formalistic structure plays a large role in how you assess and how you teach.

**F: So in that sense, talk to me about bureaucracy dictating your teaching responsibilities.**

B: There is that at any institution I think – it dictates. And of course your attitude towards it determines if it is an issue. Some colleagues, as a result of the bureaucracy, well, their attitude

towards teaching has just changed and it is quite sad for me personally because teaching is what we are about. And our task agreements don't help. It asks: why haven't you published? Why haven't you taken study leave? And why is your pass rate so high or low. They don't look at exactly what it is that you do. What you spend your time on. And if that is worthwhile or not. Does it add value to the student experience? I still believe that a university is primarily an educational institution that has the responsibility to prepare students for the workplace. Why is that not a noble vision? Why are research outputs more important than students who can actually practice law? If my graduates are employable, isn't that a perfect measure of my effectiveness? Yet depending on who you are and what you've done in research, that will determine your task agreement, so it is more like a performance agreement to be honest, and I've never negotiated what is put in there (*said laughingly*). But it's okay, I do believe that at some point Management will come to realise that teaching is at least just as important as research, and then they'll come 'round and provide lecturers with more promotion opportunities.

**F: Doesn't that negatively affect your satisfaction at work?**

B: I think that if my teaching efforts were recognised, even if not with promotion, I would be okay with that. But sometimes it's negated, as if it's not important. As long as my through-put is not too high or too low, no-one asks questions. I would really like management to notice and somehow recognise the efforts that lecturers put into their teaching.

**F: Thank you. I'm going to move on to question 3. What are the consequences for non-performance of your teaching-related responsibilities?**

B: I don't know. I guess it depends on what you mean by not performing. We do have student evaluations of our teaching effectiveness and although the institution takes that seriously, I don't trust the results. Even bad lecturers get good evaluations if their assessments are easy, or if the students find them really funny and entertaining. Many times you just feel obliged... or forced to do what is expected. What are the criteria for non-performance? I just don't know. I think some lecturers, especially those who publish regularly, will not experience negative consequences even when they shirk their teaching responsibilities. Others will be called to task for everything. An example may be the following: there is strict policy that you are going to give three compulsory formative assessments... come hell or high water... just three. Then, after some complaints, Faculty decides that you cannot have only three because one of the assessments will have to fall away because maybe a student could not write all three. And you feel compelled, in a friendly manner of course (laughs), to set up an additional test so that those students can have only the best three count. If you don't agree to do that, then all hell breaks loose. You don't really have a choice.

**F: But what would happen if you don't? If you just say NO, because policy dictates only three, and I'm not going to set a fourth.**

B: I don't know (*said laughingly*). I just decided to do! You just take the path of least resistance because whether you make a decision or not, someone is going to tell you to change your mind. You know that you have to accommodate the student in your teaching practices and outcomes otherwise they complain and you have to change your mind anyway. Students do get a lot of leniency. I think

the university has become like a business, that's where the focus is now. It's not always about making sure this person is ready for the profession they are about to enter but it boils down to rands and cents and "the client knows best". Customer care and all that is the focus. That's why the directors or whoever the case may be feel they have to allow this leniency to not affect Faculty income. So we are accountable to ensure customer satisfaction all the time. And we also have programme reviews to determine the quality of our curricula, and if those are not up to scratch, there are action plans that we have to implement and provide proof of our compliance. I'm not against quality management, but I sometimes wonder at some of the comments on such reviews. Maybe I just feel that our environment is over-regulated, you know – our teaching, our modules, our programmes, our study guides, everything gets scrutinised. It's cumbersome to say the least.

**F: Thank you. I want to move on to the professional status of the higher education lecturer. Do you think a lecturer is a professional and motivate why you say that.**

B: I'm going to keep my answer focused to my line of work, on the law, 'cause I've always said, and people hate it when I say it, but we are the exception to the rule. The law is a profession in itself. And I believe that to teach law to others you must have been in practice, even if only for a while. Especially certain law subjects that you can't teach without having practical experience. And after having trained to be a legal practitioner, you will know exactly what is expected of you in terms of professional and ethical behaviour, what you can and cannot do. You need to know what you're talking about; you need to be a subject specialist in order to lecture it. So yes, law lecturers are not necessarily qualified teachers, but you are a professional legal practitioner. Do we need that teaching degree? I don't think so. I believe you learn by doing and you've got academic support services that can teach and develop you as a teacher. But another important element is mentorship arrangements. I think that more needs to be done with that. I know that since I've been here, my mentor, who was a friend before she became my mentor, has had a tremendous influence on my development as a lecturer. She is the person I go to with new ideas for my classroom? 'Cause she is an old hand and me being newer at this, I need that kind of guidance to be a professional teacher. But then I want to be professional in my teaching practice. Some professors only want the recognition that their research provides for them. They don't actually care whether they can teach or not.

**F: So if a lecturer is then to be recognised as a professional person, what should be the origin of his professional status?**

B: Unfortunately I really believe that your research output directly links to your professional status. Which is unfortunate 'cause there's no other way to gage your professional status as a lecturer, unless you've got someone regularly visiting your classes to assess whether you are able to convey the content correctly or not, whether your teaching methods should be improved or not, whether you make an effort to engage students or not. There's technically no other way to measure your effectiveness in teaching than with peer review. You need your peers to evaluate your classes, and then those colleagues who know your discipline but also know what quality teaching entails. But it gets frowned upon if you ask your colleagues to referee your classes. You have to use an outside person or they say it's not objective. Which means that you're almost forced to realise that your promotion all comes

down to your research. Which is a difficulty when you are lecturing a module that does not link to your research output or to the recognised fields of research in your Faculty 'cause it puts double pressure on you – to stay on top of research and developments in your subject and then to do additional research in another field. So then that 40 something split really doesn't work. I'm a prime example of that. The module I'm lecturing and my research – are two different things. The Faculty will not let me move into my expertise in order to do that. They say if you want to remain known for that field of expertise, you must publish. So, how to assess professionalism and what makes you stick out from a lecturer at another university in the same field comes down to your research grading and your grading comes down to your published research. I just want to add that your student assessment can say that you are brilliant, but does that mean you really are brilliant? Or did you just give the students what they wanted to see or hear? I don't know if that is a yardstick for effectiveness or brilliance. You can even look at the pass rate and still not get a true indication of your effectiveness as a teacher. That's just my personal opinion. So what is the benchmark for good teaching? Who really knows? Again probably only your through-put.

**F: We've now spoken about your responsibilities and professional status as lecturers. Can you then define accountability within your teaching environment?**

B: Accountability is being responsible for the tasks that are assigned to you. And for how you behave in your work environment. I think I'm accountable to students for learning what they are supposed to learn. But this is a tough one for me. I'm not really sure where you draw the line when it comes to accountability. I think I am accountable to students to make sure that I've imparted what I know to get them ready for practice. I think accountability is also about making sure that all assessment is on an equal footing, that the standards by which I measure their performance are the same throughout. So I don't allow for favouritism and I keep my assessments objective. But yes... probably we are accountable to many other groups... but I don't have time to think about that. Maybe to future employers of my students? But then there is a ping-pong going on with regards to graduates not being ready for practice – a ping-pong between school, university and practice itself. And I firmly believe the greatest problem lies with schools not getting students ready for university and practice that do not own up to their responsibilities when they employ graduates. They want to insist that students aren't ready for work but they are only shifting responsibilities. We are only supposed to teach them all the basics, and the knowledge. But employers are supposed to refine what we teach them for practice. I'll probably get shot down for that but I really think that's where the problem lies when it comes to our accountability for the employability of our graduates. We will make sure they know all they are supposed to know and practice must then take that and panel beat it and get them to where they believe that a particular individual is supposed to fit into the organisation.

**F: Okay, I'm moving on. You would've read in the consent form that you had to sign that the study aims to develop guidelines for an accountability foundation for the lecturer with regards to his or her teaching related work. We've now spoken about what your responsibilities are and how and to whom you feel accountable. I would now like to know if a clear delineation of your accountability in your teaching-related work would be of value or disadvantage to you.**

B: I think it would be very beneficial. And I think that the important thing is that it would enhance the feeling of responsibilities and accountability of all lecturers. It's kind of difficult to dodge your duty if there is a framework against which Management will measure your performance. Of course the framework should be different at different post levels. A junior lecturer cannot be held accountable for all the same things as say, a senior lecturer with many years of experience and more pay. Your level of appointment should in a way determine what you are responsible for. And a professor – well, I don't know, he should probably be an excellent teacher (*said laughingly*). But mostly to get the title you only have to be excellent at research and publications. Everyone cannot be painted with the same brush. So to a certain extent yes, our accountability can be the same but the type of responsibilities should be different. There's a general calling that should be the same but then there should be different exceptions for the different levels... does that make sense?

F: Yes, maybe it's kind of like the tenure system they use in most all other parts of the world? Your rank changes as your qualifications and responsibilities do and you only get tenure, what we know as a permanent position, if you are accountable for many different things over a long time.

B: Yes! That would be it! You know, when I started at the university and was only employed as a part time lecturer, I saw that as my academic articles (*said laughingly*) – you know, like any profession before you become a lawyer or a doctor you have articles or internships that you have to pass to show that you are skilled and able to have your own clients and to serve them effectively in your profession. That was the same for me. During my part time lecturing period I made many mistakes but I had a mentor to help me get on track and I learnt a lot. The mentorship programme is so important for this to work 'cause you don't only learn how to apply what you know, but you learn about the work environment and how the institution works, the culture, the do's and don'ts... the people, and what you're allowed to say or not (laughs). You should also kind of shadow an experienced person to see how things are done, sit in on classes for example and learn from them. This is I think essential for that person's professional and personal development in the lecturing profession – it should be required, not optional. Fortunately or unfortunately, I don't know which; it's one of those professions where you need to have practice. The more you do it the better you will get at it. It's not one of those things that you are just born with; you need practice, to learn every day.

F: Thank you. The last few questions are about the rights that you have as a lecturer.

B: Really? Do we actually have any (*said laughingly*)?

F: Do you?

B: Well I think it depends on your definition of rights. This is a very contentious issue – you can look at it from the view of having support to do your work, and yes, then I agree that we do have that. And with regards to employment conditions it's a generic thing – the labour relations act states minimum conditions for all South African employees, not particularly for lecturers working in the higher education environment. Yet the type of work we do is kind of unique, so we could actually benefit from more specific minimum conditions. It's really up to you to check the labour acts and see what pertains to you and if you are protected at work. For instance, if you think of your constitutional right to privacy – we can't say to students that they may not take photos of you in class or record your lessons or your

slides – they will do it anyway. I know of a colleague who was criticised the other day for what she wore – you know, personal criticism as opposed to your lecturing methods that should improve. What rights do we have then? I mean, one student threatened to burn my house down – where is my right to safety then? People thought that funny... yet if I'd threatened the student with the same claim, can you think of the consequences? I would've been subjected to a disciplinary hearing, and the media would've had a field day! If I have responsibilities, what are my corresponding rights? At this stage you have a lot of obligations and a lot of bureaucracy that pushes you to perform but I don't know about rights. I don't even believe we have the right to academic freedom anymore. Everything gets dictated by either national regulations or by institutional policies. Even what you do research in. Probably those who carry the purses dictate what we can and cannot do.

**F: So talk to me about what happens to a lecturer who is confronted by issues that lead to a dispute. Where would a lecturer go to find out what his rights are? What is the origin of a lecturer's rights?**

B: (*laughing*) That's where my lawyer-side kicks in! So you would start with labour legislation and then you would peruse the university's human resources policies and you would find out what a person's rights are specific to the situation that you are in. That is where my law background and my practical experience come in. I will know where to look. I may not know the exact name of the document but I will know where to look – on our institution's human resources website.

**F: How will you define security in your working environment?**

B: I can just say that job security comes down to your performance, to your through-put and your research output.

**F: Do you really think that job security is an issue in the South African working environment? Do they still sack people who don't do their jobs? If you don't perform in your teaching-related duties, are you of the opinion that they will let you go?**

B: Well I think there is a lack of precedent on this since no one really knows the criteria for good teaching. So probably no, job security is not an issue. Only if you are downright lacking in both teaching and research outputs will there probably be an inquiry. And even then you don't get rid of people so easily. Bad lecturers are sometimes great researchers, unfortunately (*said laughingly*). Yet job security has never been a factor for me. Physical security, that's a different matter cause if a student threatens to burn your house down it may be an issue. Especially for a woman, you know I am vertically challenged (smiles) so that poses a bit of a problem when huge rugby players come into your office with demands. But yeah, I'm not easily scared. Sometimes it's intimidating when a horde of students storm you after class to debate an issue or marks, but you don't feel that you're going to die or anything. You can feel a bit overwhelmed. But that's been resolved and I've never felt insecure otherwise. With regards to my workload, well, I believe that if you are a professional, then it's part and parcel of the system, and you accept it. Some people can cope with that and some can't. If you can't cope then it's probably not the right place for you. I don't think that the system has to change for you. I accept the system and what is expected of me. I've never felt threatened by it. I do want recognition for what I do right, but I don't mind criticism if I do things wrong. I want my institution to empower me, to provide me with opportunities to grow and develop as professional, and I want them to build my

morale by making me feel valued. That to me is the main aspects of feeling psychologically safe and secure. I also think the way that policies and rules are implemented might have an effect on how secure people feel. For me, no, it's not an issue, but that's just the person that I am, because of my personality. They don't work on my psyche and I say what I feel without worrying what they think. I don't suffer from stress and I'm not dissatisfied with my work situation. Well, maybe the language thing sometimes works on me a bit. You know we have to lecture in Afrikaans and that's my second language, and the students have a problem with that. So I had to work at my Afrikaans and it was difficult for me. Maybe that's an infringement on my constitutional rights? But I'm not going to pursue it. What I can mention is that it just feels that all lecturers are painted with the same brush, irrespective of your post level, and that may be an issue for me. There has to be different expectations and responsibilities for different post levels. That will enhance my security. Because then they will recognise that I cannot perform the same duties as a professor in my Faculty.

**F: Any other thoughts on accountability that may contribute to this study?**

B: I think financial constraints have a huge impact on what you can and cannot do in your lecturing environment. If you don't have the infrastructure or resources to do certain things, you just can't take responsibility for the fact that your classroom practices are sub-standard. You want to use new technology in your classes to improve your teaching but the technology is not available, then that's that. You can't use it.

**F: Do you think that relates to your rights as a lecturer? To receive resources to improve your teaching?**

B: I think it comes down to the obligation of the institution. If they want me to lecture effectively, they have to provide me with the right resources. And I can add that if you want a lecturer to be an asset to the institution, provide development opportunities, especially for teaching. And corresponding rewards and recognition so that lecturers will learn to value their own teaching practices.

**F: That's all I have! Thank you so much for participating. Your ideas are really valuable to me and to the study.**

## Addendum 7.6: The final code list

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### **THE ACCOUNTABILITY OF THE HE LECTURER**

#### **A. Accountability components**

##### **Aa. Teaching-related responsibilities**

- Aa.1 Pre-teaching responsibilities*
  - Curriculum and course planning and development
  - Materials development
- Aa.2 Teaching responsibilities*
  - Classroom practices
  - Learning opportunities
  - Teaching quality
  - Assessment responsibilities
- Aa.3 Post-teaching responsibilities*
  - Student support / mentoring
  - Administrative duties
  - Committees and conferences

##### **Ab. Expected lecturer conduct**

- Ab.1 Customer care and student rights*
  - Students as clients
  - Lecturer vs. student rights
- Ab.2 Professional and ethical conduct*
  - Codes of conduct
  - Self-accountability
  - Professional body

##### **Ac. Student success**

- Ac.1 Graduate employability*
  - Prepared for practice
  - Main purpose of HE
- Ac.2 Through-put rate*
  - Funding issues
  - Programme admissions
  - No balance

#### **B. Accountability elements**

##### **Ba. Answerability**

- Ba.1 An account-giving relationship*
  - Internal accounters
  - External accounters
  - Self as accounter
  - Justification
- Ba.2 Transparency*
  - False transparency
  - Commitment
  - Reciprocal in nature

*Ba.3 Context-specific*  
Definition is context dependent  
Teaching quality  
Post level specific

**Bb. Clear task requirements**

*Bb.1 Clear responsibilities and standards for task performance*  
Unsure of specific tasks  
Standards of performance  
Employment contract

*Bb.2 Consensus for expected tasks*  
Validation of fair contract  
Task agreements or job appraisals

**Bc. Clear consequences**

*Bc.1 Transparent disciplinary penalties/sanctions*  
Nature of offence  
Appropriate penalty  
Absence of consequences

*Bc.2 Consistency of enforcement*  
Inconsistency  
Manager-dependent

**C. Originating source of accountability**

**C.1 Institutional source**

C.1.1 Employment contract  
C.1.2 Policy/Rules  
C.1.3 Post level  
C.1.4 Task agreement

**C.2 Sources external to the institution**

C.2.1 Legislation and sub-ordinate legislation  
C.2.2 Professional body requirements<sup>17</sup>  
C.2.3 National and economic needs

**C3 Self**

C.3.1 Intrinsic values and internal code of ethics

**D. Accountability mechanisms**

**Da. Mechanism external to the institution**

National audits

**Db. Institutional instruments**

Programme reviews  
Faculty inspections  
Employer surveys  
Student evaluations  
Student complaints  
Peer review

## **THE SECURITY OF THE HE LECTURER**

- E.     Legal security**
  - Ea.    Constitutional/Human rights protection**  
Awareness of rights framework  
Human dignity and respect  
Safe and healthy workplace  
No protection
  - Eb.    Labour rights protection**  
Minimum employment conditions  
Working hours  
Unique employment conditions
  - Ec.    Academic freedom**  
Disparate definitions  
Infringement on academic freedom
  - Ed.    Procedural fairness**  
Lack of awareness  
Student complaints all important
  - Ee.    Who/what protects your rights**  
Legislative protection  
Union protection  
Collegial protection  
Line manager
  
- F.     Environmental security**
  - Fa.    Lecturer support**  
Adequate resources  
Managerial support  
Financial constraints  
Collegial support
  - Fb.    Job security**  
Permanent position  
Stable income
  - Fc.    Rewards and promotion opportunities**  
Scarce rewards  
Promotional path
  - Fd.    Clear accountability framework**  
Value of framework  
Guard against over-regulation  
Post level
  - Fe.    Bureaucracy**  
Restrictive effect  
Professional staff
  - Ff.    Research vs teaching debate**  
Research/teaching split  
Status for publications  
Expected teaching quality  
Dual career path
  - Fg.    Workload/diverse responsibilities**  
Working hours  
Environmental threat

- G. Psychological security**
- Ga. Trust**
  - Over-regulation
  - No trust in abilities
- Gb. Personal value, respect and recognition**
  - Acknowledgement of worth
  - Lack of respect
  - Psychological well-being
- Gc. Job satisfaction**
  - Passion for teaching
  - Personal reward and development
  - Work conditions
- Gd. Professional status**
  - Varied perspectives
  - Linked to title
  - Professional development
  - Lack of recognition
- Ge. Intimidation**
  - Threats
  - Manipulation
  - Collegiality

## Addendum 7.7: The participant background questionnaire

Dear Participant

I am currently doing research with a view to generate guidelines for an improved juridical foundation for accountability to enhance the security of the Higher Education lecturer in South Africa. You have indicated that you are willing to participate in the research. Would you please complete the following background questionnaire so that I can compile a participant profile? I hereby guarantee that your identity, as well as the identity of your Institution and Faculty will be protected when this information is used. Although your participation is of the utmost importance for this empirical study, be assured that it is on a voluntary basis.

Please respond honestly to the following questions.

Thank you for your participation.

Participant number: \_\_\_\_\_

1	Age group	20 – 29 years	
		30 - 39 years	
		40 - 49 years	
		50 - 59 years	
		60 years +	
2	Gender	Male	
		Female	
3	Highest qualification	Honours degree	
		Master's degree	
		Doctoral degree	
4	Teaching experience in Higher Education	1 - 3 years	
		4 - 10 years	
		11 years +	
5	Level of academic appointment	Permanent Junior lecturer	
		Permanent Lecturer	
		Permanent Senior lecturer	
		Assistant Professor	
6	Do you have a HE teaching qualification?	Yes	
		No	
7	Are you familiar with the content of national higher education legislation?	Yes	
		No	
8	Are you familiar with the content of national labour legislation?	Yes	
		No	

9	Are you familiar with your Institution's policies and rules with regards to the protection of human rights and labour conditions?	Yes	
		No	
10	Do you belong to a trade union?	Yes	
		No	
11	How will you best describe your main task in your faculty?	Professional lecturer with a focus on quality teaching to enhance student learning	
		Academic researcher with a focus on disciplinary research and significant outputs with a view to develop new knowledge in my field of expertise	
		Balance between the above foci	