

ACADEMIC FREEDOM, INSTITUTIONAL AUTONOMY AND THE FUTURE OF DEMOCRACY



**Council of Europe
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Series No. 24**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

ACADEMIC FREEDOM, INSTITUTIONAL AUTONOMY AND THE FUTURE OF DEMOCRACY

Sjur Bergan,
Tony Gallagher and
Ira Harkavy (eds)

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Preface

As Director General of Democracy, I am proud to present this book on academic freedom, institutional autonomy and the future of democracy.

The topic is at the very heart of the concerns of the Council of Europe. Democracy, human rights and the rule of law cannot become and remain a reality unless higher education institutions, and staff and students, enjoy academic freedom and institutional autonomy. Conversely, we cannot have genuine democracy unless the higher education and research community is able to enquire freely.

The Council of Europe has already developed standard-setting instruments on the public responsibility for higher education and research (Recommendation Rec/CM(2007)6) and on the public responsibility for academic freedom and institutional autonomy (Recommendation Rec/CM(2012)7). Our Parliamentary Assembly has also adopted an important recommendation (Recommendation 1762 (2006) on academic freedom and institutional autonomy) and is now preparing another recommendation on the threats to these values.

The articles in this book look beyond the role of public authorities to the role of the academic community itself, as does the declaration adopted by the Global Forum. The book includes views from North America, Asia and Europe. This has been possible thanks to our long-standing co-operation with the International Consortium for Higher Education, Civic Responsibility and Democracy, as well as the more recent inclusion of the Organization of American States and the International Association of Universities in this co-operation.

This is the 24th volume in our Higher Education Series since it was launched in late 2004. Together, these books consider key issues in European higher education policy and the contribution of higher education to the development of a culture of democracy. That we have published an average of one or two books every year for 15 years is no small achievement. It shows also our strong commitment to safeguarding and realising genuine democracy.

I am grateful to the authors who made this book possible and to its three co-editors, Ira Harkavy, Tony Gallagher and my colleague Sjur Bergan, who initiated our Higher Education Series and has been series editor since the beginning.

I wish you much pleasure and food for thought in reading this important book.

Snežana Samardžić-Marković
Director General of Democracy
Council of Europe

A word from the editors

Sjur Bergan, Tony Gallagher and Ira Harkavy

This book arises from discussion and debate at the Global Forum on Academic Freedom, Institutional Autonomy and the Future of Democracy, held in Strasbourg in June 2019, which gathered participants not only from Europe and the United States but also from other parts of the world. The fact that concerns about academic freedom and institutional autonomy are global is reflected in the book.

Academic freedom and institutional autonomy are becoming increasingly important components of how democracy develops and how it should develop, not least because of the growing international pressure to which these fundamental democratic values are subject in many countries. The forum gathered some 130 higher education leaders, policy makers with public authorities and representatives of NGOs, the largest number of whom were drawn from Europe and the United States, as well as smaller numbers from Australia, Asia, the Middle East and Latin America. The global reach of the participants reflected the organisational diversity in the forum co-organised by the Council of Europe, the International Consortium for Higher Education, Civic Responsibility and Democracy, the Organization of American States, and other partners, notably the International Association of Universities and the Magna Charta Observatory.

We set ourselves the tasks of increasing our commitment to higher education's contribution to developing and advancing a culture of democracy, and of building a better understanding of how academic freedom and institutional autonomy relate to the future of democracy. The conversations in Strasbourg are taken forward by the contributors to this book, all of whom presented at the forum.

Our work on the democratic mission of higher education and the co-operation between the Council of Europe and the International Consortium for Higher Education, Civic Responsibility and Democracy dates back to 1999, with a project on the University as a Site of Citizenship (Plantan 2004). The Global Forum on Academic Freedom, Institutional Autonomy and the Future of Democracy that served as the occasion for this book, therefore, also marked the 20th anniversary of the transatlantic partnership.

This was the sixth Global Forum. In 2017 we gathered in Rome under the title "Higher Education for Diversity, Social Inclusion and Community: A Democratic Imperative". Our concern then was the challenges to democracy arising from mistrust of democratic institutions, increasing political, educational and economic inequalities, alienation, and the rising intolerance and defiance of cultural diversity. We explored how higher education could play an essential role in building a culture of democracy by addressing all these challenges. We gathered in Belfast in 2014, where the conference theme was "Higher Education and Democratic Innovation", and we committed to promote democracy, human rights and the rule of law, as well as intercultural dialogue, to promote social harmony and justice, and the belief in the key role of education in furthering these goals. As part of a series of

events marking the 200th anniversary of the University of Oslo we gathered there from 27 to 29 June 2011 to explore the theme “Reimagining Democratic Societies: a New Era of Personal and Social Responsibility”. The first two global fora, both held at Council of Europe headquarters in Strasbourg, focused on “Converging Competences: Diversity, Higher Education and Sustainable Democracy” (2008) and “The Responsibility of Higher Education for a Democratic Culture” (the first forum, in 2006).¹

As the Global Forum has grown, so too has the global reach of its participants, an issue we will address below. What also has changed is the level of threat to democratic culture generally, and to the position of higher education more specifically. The backdrop to the 2019 forum included unusually high levels of political volatility in many countries, marked in some by a collapse in support for traditional parties and in others by the sudden emergence of new political forces. The rise of new populist political forces was particularly important and of concern: these politicians often use emotion instead of reason, assertions instead of evidence, and evoke nativist rhetoric. Many display a disinterested relationship with concepts of “truth” and a tendency to dismiss the role of experts, especially when their expertise is not politically convenient. It is a disdain for science, knowledge and democracy itself that is of gravest concern to higher education, for knowledge and debate are the very stuff of higher education and belong to the very fabric of our institutions.

In the forum and in the contributions to this volume we set out the reasons why a focus on academic freedom and institutional autonomy is important. Our fundamental contention is that they are essential for universities to produce the research and teaching necessary to improve the human condition, which involves developing and maintaining a democratic society. They do this by raising the quality of research and teaching in higher education. This is so because, as is laid out in the values of the Magna Charta Universitatum,² the work of higher education institutions has to be free of political interference and, at the same time, a place where dialogue and debate is encouraged, because it is not possible to advance knowledge if old orthodoxies and dogmas are immune to challenge. In practical terms we have seen examples of actions that, on the face of it, seem to provide just such challenges, through attempts to control or restrict the content or teaching or research programmes, or prevent controversial speakers from appearing on university campuses.

We further contend that the relationship between academic freedom, institutional autonomy and democracy is fundamental: it is barely conceivable that academic freedom and institutional autonomy could exist in a society not based on democratic principles, and equally we believe that democracy is enriched when higher education institutions operate on the basis of these principles. Thus, symbiosis is not just between the formal aspects of higher education institutions and democratic societies, but also part of the culture of both, that is the ideas, ideals and practices that enable them to function effectively. Democratic culture is the

1. An overview can be found at www.coe.int/en/web/higher-education-and-research/forums, accessed 3 October 2019.
2. www.magna-charta.org/, accessed 3 October 2019.

set of attitudes and behaviours that enable democratic institutions, procedures (typically, elections) and laws to function in practice.³ Higher education institutions are places that have to be imbued with democratic culture, and that, in turn, helps to promote democratic values in the wider society.

None of these issues are simple and the lines between legitimacy and illegitimacy are sometimes hard to discern. For example, while it is important that higher education institutions are places for dialogue and debate, places where people can and should be discomforted by controversial opinions, the normal legal constraints of freedom of expression – that people should be free from the threat of violence or harassment – should apply. But what about a situation where an extremist political group is deliberately trying to fuel controversy or provoke a reaction by courting controversy?

In the forum and this volume, we set out to extend our understanding of these issues, in their fullest dimensions, and to consider the frameworks we might use, or develop, as reference points to guide decisions and practice. We have, for example, quite a good framework for our discussions on the concept of institutional autonomy through the European University Association's (EUA) University Autonomy Tool (Pruvot and Estermann 2017), which not only sets out a rationale for dimensions of autonomy, but also provides indicators and data on each of these. Useful as this is, however, it tends to focus on the more formal aspects of institutional autonomy. There are subjective elements to this as well, including issues related to culture, which may impact on the outworking of specific formal arrangements.

The concept of academic freedom is more problematic in that we do not yet have a clear definition of what it means, how it relates to freedom of expression, or how it relates to the civic responsibility of higher education to make a positive difference to society. Academics can enact different roles, as disciplinary experts, as public intellectuals or as normal citizens of society. Should they operate by different rules when they speak from the lectern in a classroom, or the university hall in a public meeting, or when writing an opinion piece in a popular newspaper? And should they be judged differently by their academic colleagues or their academic institution in each of these contexts? In Europe, work is now under way within the Bologna Follow-Up Group on identifying ways in which the degree of respect for academic freedom and institutional autonomy may be assessed,⁴ and similar thoughts have been expressed in discussions within the Parliamentary Assembly of the Council of Europe, where a recommendation on threats to academic freedom and autonomy of universities in Europe is under preparation. It is hoped the recommendation will be adopted in June 2020.⁵

3. For the concept of democratic culture, see the Council of Europe's Reference Framework of Competences for Democratic Culture, available at www.coe.int/en/web/education/competences-for-democratic-culture, accessed 3 October 2019.

4. One of the editors (Sjur Bergan) is a member of the small task force set up for this purpose.

5. The rapporteur is Mr Kolomon Brenner (Hungary), and the expert report is being prepared by Mr Terence Karran, who is among the authors of this volume. Two of us (Tony Gallagher and Sjur Bergan) participated in a discussion in the Assembly's Committee on Culture, Science, Education and Media on 3 October 2019.

For some time, it was felt that these issues were of independent concern, that the issue of academic freedom was something that exercised higher education institutions in North America, while higher education institutions in Europe were much more engaged by the issue of institutional autonomy. In fact, both issues are related, and both are of concern across many more jurisdictions than these. This realisation has developed within the forum as the global reach of participation has widened. The challenges to democracy and the centrality of higher education to these issues are found in most, if not all, regions of the world, even if specific elements take on local inflections. Both of these themes are clear in the contributions to this volume: the broad problems and challenges are global, even if they take on local inflections in practice, but there remains significant value in engaging on these issues at a global level.

A further key partner in these considerations is public authorities and even here there are different models of practice evident in different global contexts, with public authorities in different contexts having a mix of economic, political and social priorities for higher education. The balance of these priorities has varying implications for the relationship between higher education institutions and public authorities with regard to academic freedom and institutional autonomy. Public authorities set the legislative framework within which higher education institutions operate, so they are crucial for the establishment of contexts that enable or constrain academic freedom and institutional autonomy. The Council of Europe has always recognised and championed the multiple purposes of higher education institutions, including the priority of preparing students to live as active citizens in democratic societies. The commitment to higher education as a public good also implies a commitment to a consciously positive impact on society, which can be realised in a variety of ways. All of them require engagement and negotiation between public authorities and higher education institutions to work through the approaches that seem best suited to identifying shared goals and contributing to the common good. This also requires consideration of formal mechanisms to govern the relationship between higher education institutions and public authorities so these wider goals can be achieved, a preparedness to address the indirect consequences of legislative and other frameworks that may unintentionally impact on academic freedom and institutional autonomy, and the willingness to articulate the shared values that will collectively help to underpin democratic culture.

These are ambitious goals, but they are immediate and pressing needs, given the increasing level of threat to democracy. In the best traditions of academic practice, we are seeking to establish conceptual and organisational frameworks through which we can generate data to inform our deliberations and use those data to better understand the consequences of our tasks. In the forum, and in this volume, we have organised the chapters in three broad ways. We have a number of regional overviews that explore the debates on academic freedom and institutional autonomy, and their local inflections, across different parts of the world. Our next section explores the role of public authorities, including contributions from Europe, the United States and UNESCO, to provide regional, national and transnational perspectives. The third and final part of the book presents a range of stakeholder perspectives through which the details of local practice can be discerned, as well as

the full text of the Declaration on Academic Freedom, Institutional Autonomy and the Future of Democracy adopted by the participants in the Global Forum.

When academic communities flourish, they can make an enormously important and positive contribution to society, not least in helping to underpin the values and practices of democratic culture. We are all too aware of the type of gross challenges to democracy and higher education institutions that can and do exist, and we have plenty of frameworks to help guide us through these challenges, but further details of discovery and action remain to be uncovered and developed. The Global Forum, the declaration that emerged from it, and this volume of discussion, debate and evidence all add to the body of knowledge we have to work with and serve as a further commitment to secure academic freedom, institutional autonomy and democracy.

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Setting the scene

Academic freedom, institutional autonomy and the engaged university

Sjur Bergan and Ira Harkavy⁶

ABSTRACT

An ability to reflect and have a bit of distance is necessary for a university to fulfil its role as a venue to understand and help solve the larger problems that face humanity. This role of higher education cannot be fulfilled except in a context of democracy, both in society at large and within academia. Fulfilling this role, therefore, does not mean stepping out. The engaged university is an institution that fulfils its broader societal role as an independent institution, drawing on its research, teaching and institutional resources. It is neutral in the sense of being non-partisan, but it is far from neutral in the sense of being devoid of values or convictions. The chapter discusses the concept of the engaged university in relation to its democratic mission as well as in relation to academic freedom and institutional autonomy, which must include the freedom and autonomy to engage.

Keywords: engaged university; democratic mission; democratic culture; academic freedom; institutional autonomy.

THE ENGAGED UNIVERSITY

An ability to reflect and have a bit of distance is perhaps necessary for a university to fulfil its role as a venue to understand and help solve the larger problems that face humanity. Addressing burning local, national and global issues, such as climate change, sustainable development, migration, poverty and increasing inequality, societal divides, rising extremism, and a democratic deficit, requires that higher education institutions, faculties and students have the freedom and the will to consider issues both in the short term and in a broader and longer-term perspective, as well as in relation to their values. This role of higher education cannot be fulfilled except in a context of democracy, both in society at large and within academia. Moreover, it cannot be fulfilled unless the university sees itself as an actor of democracy.

The ability to reflect and take a step back, therefore, does not mean stepping out. Universities and academics must be present in public debate and contribute to solving our most significant problems through research, teaching and informed

6. A first version of this article was published in *Transform*, the journal published by Engaged Australia, in Issue 4, September 2019.

engagement. In many cases, the contribution of the academic community will be one nobody else could make, providing an essential input and working with others to improve the quality of life.

An engaged university, therefore, is an institution that fulfils its broader societal role as an independent institution, drawing on its research, teaching and institutional resources. It is neutral in the sense of being non-partisan, but it is far from neutral in the sense of being devoid of values or convictions. It is committed to the public good, to democracy and human rights, and to basing policies and decisions on facts established through study, research and critical reflection – as well as to challenging received wisdom based on new discoveries. Luckily, the academic community is increasingly embracing the idea of engagement as a moral and intellectual imperative and as a part of its academic and institutional identity (Benson, Harkavy and Puckett 2017; Brink 2018).

THE DEMOCRATIC MISSION OF HIGHER EDUCATION

The engaged university, then, seeks to fulfil the democratic mission of higher education. An important component of the democratic mission of higher education is to motivate young people to exercise their voting rights and to do so on the basis of a considered and coherent view of how they want society to develop. Part of the democratic mission is to provide young people with the competences to do so – what the Council of Europe has come to call competences for a culture of democracy (Council of Europe 2018). The Council of Europe model comprises 20 competences centred around four clusters:

- ▶ values
- ▶ attitudes
- ▶ skills
- ▶ knowledge and critical understanding.

Nevertheless, seeing democracy as an issue uniquely of electoral participation is insufficient. Democracy requires free and fair elections but also participation by citizens⁷ in the life of societies and communities between and beyond elections. At a time when people seem to focus largely on their own interests and private space, a major part of the democratic mission of higher education is to stimulate a commitment in their students, graduates, faculties and staff to public space and the public good.

Voting and participation require deliberation (Gutmann and Thompson 2004). The ability to develop one's own views and arguments and the will and ability to seriously consider those of others are part and parcel of the competences required for a culture of democracy. They are also part and parcel of the competences higher education should develop in its students. The Council of Europe has developed the notion of "multiperspectivity", originally within its history education programme

7. In the sense of members of a given community, not just as holders of a given nationality or passport. In many countries, non-citizens have voting rights in local and regional elections, subject to residence requirements, and resident non-citizens participate in civil society associations.

(Council of Europe 2001). In this context, multiperspectivity implies recognising that my history is not only mine but also that of my neighbours and that they may legitimately have a different view.

More broadly, multiperspectivity implies that we need to seek to see issues from several points of view and to understand why others may hold views very different from our own. Multiperspectivity, however, does not mean that all views are equally valid. We are not obliged to give up our own view unless we are convinced by the evidence and arguments of others or by the recognition that there are views that will always be unacceptable. Slavery and genocide are two examples of phenomena that cannot be legitimised regardless of how often they may have occurred in history. These examples also show the need to distinguish between understanding any given phenomenon and accepting it as legitimate. If we cannot understand the factors that led to slavery or genocide, we will also be unable to prevent them in the future. A culture of democracy must encourage confronting, even challenging, unacceptable views with arguments.

The democratic mission of higher education is developed within institutions – on campus – as well as outside of institutions – in society at large. Within institutions, the democratic mission is furthered through research, teaching, learning and engagement. Students acquire the competences required to be active, reflecting citizens. Competences for democratic culture comprise a set of attitudes and behaviours that seeks resolution of conflicts through dialogue; that accepts that while majorities decide, minorities have certain inalienable rights; and that sees diversities of background and opinion as a strength rather than as a threat. These competences are developed through study programmes, in the classroom, but also by engaging in community work and with associations, which may or may not be part of a study programme.

The democratic mission of higher education is also developed through institutional culture: institutions cannot credibly teach democracy without practising it. Democratic practice comprises student, faculty and staff participation in the governance of the institution and its faculties and departments as well as participation in student associations. This approach, reminiscent of the Kantian imperative to “act in such a way that each one of your actions can be the basis for a law”, is also known as a whole-institution approach.⁸

Higher education institutions must be “whole institutions” – they cannot preach without practising. It may be worth underlining that the injunction to be “whole institutions” in no way diminishes or relativises the need for facts, knowledge and understanding. Rather, a whole-institution approach reinforces this need, since the institution and its academic community cannot argue their importance in some contexts and dispense with them in others. Outside of the institution, the democratic mission is pursued through community engagement as well as by institutions and the academic community playing a broader societal

8. A guidance document on the whole-school approach will be found in Volume 3 of the Reference Framework of Competences for Democratic Culture (Council of Europe 2018), whereas a guidance document on the Framework in the context of higher education, which is under preparation, will include guidance on a whole-institution approach.

role. The University of Pennsylvania (Weeks 2019) and Queen's University Belfast (Gallagher 2019; Gallagher and Harrison 2015) are both examples of universities with high ambitions and standing in research and teaching that also play important roles in disadvantaged parts of their local communities. Penn and Queen's are but two examples among many community-engaged higher education institutions in the US and Europe, even if our impression is still that US institutions generally give higher priority to community engagement than many European institutions do.

More broadly, members of the academic community provide knowledge and expertise on many issues of societal importance, from poverty through climate change to urban planning. It is an important reason why the broader society should finance higher education and research. Just as democracy cannot be built on ignorance, sustainable solutions to our societal challenges cannot be found except on the basis of the most advanced knowledge available, which universities, often working with partners in government, business and the community, provide. This does not preclude what is accepted knowledge today from being challenged by new research tomorrow.

New knowledge cannot be developed unless the academic community enjoys academic freedom and institutional autonomy. The argument for these two fundamental values of higher education is partly one of quality and efficiency and partly one of democracy and participation. However, rather than two separate arguments leading to the same conclusion, we would argue that they are two aspects of one and the same argument. Quality higher education and democracy are intertwined, and mutually supporting. Quality can only be fully developed within the atmosphere of free enquiry that should characterise democratic societies. Only a culture and atmosphere of democracy can foster quality higher education, and our societies cannot reach their full potential unless higher education makes contributing to developing the kind of society in which we would like our children and grandchildren to live its top priority.

Since 2018, we have seen examples – though the movement to combat climate change – of what young, determined people – many of them school or university students – can do. Many scientists have expressed support for the movement.⁹ It is our assertion that climate change cannot be combated effectively without a strong contribution by higher education and research. As the climate activist Greta Thunberg said before the US Congress: “I don't want you to listen to me, I want you to listen to the scientists”.¹⁰ An important part of the challenge, of course, is that those who do not wish to make combating climate change a priority, and even dispute the reality of it, not only do not want to listen to scientists but in many cases question whether public funding should support research that leads to conclusions with which they disagree and even whether climate scientists should have

9. See for example the appeal signed by over 3 600 Belgian academics <https://scientists4climate.be/letter/english/> and the support expressed by some 12 000 German academics www.deutschlandfunk.de/scientists4future-wissenschaftler-unterstuetzen.697.de.html?dram:article_id=443354, both accessed 3 October 2019.

10. www.sciencealert.com/greta-thunberg-wants-you-to-listen-to-scientists-not-her, accessed 1 October 2019.

the right to speak out. When those questioning the validity of science and the right of scientists to make their findings known hold political power, the results can lead to (self-)censorship under duress.¹¹

A TRANSATLANTIC CO-OPERATION

Since 1999, the Council of Europe and the International Consortium for Higher Education, Civic Responsibility and Democracy have been working together to advance the democratic mission of higher education. The first part of their co-operation was a project on the university as a site of citizenship, and since 2006 the action has focused on a Global Forum every two to three years, always followed by a book in the Council of Europe Higher Education Series:¹²

1. The Responsibility of Higher Education for a Democratic Culture (Council of Europe Headquarters, Strasbourg, June 2006).¹³
2. Converging Competences: Diversity, Higher Education, and Sustainable Democracy (Council of Europe Headquarters, Strasbourg, October 2008).¹⁴
3. Reimagining Democratic Societies: A New Era of Personal and Social Responsibility? (University of Oslo, June 2011).¹⁵
4. Higher Education for Democratic Innovation (Queen's University Belfast, June 2014).¹⁶
5. Higher Education for Diversity, Social Inclusion, and Community: A Democratic Imperative (LUMSA University, Rome, June 2017).¹⁷
6. Academic Freedom, Institutional Autonomy, and the Future of Democracy (Council of Europe Headquarters, Strasbourg, June 2019),¹⁸ to which we will return shortly.

Each Global Forum has gathered higher education leaders from Europe and North America, and increasingly also from other parts of the world, and in 2018 the Organization of American States joined the co-operation. The International Association of Universities has contributed to several Global Forums and joined the co-operation as a partner in 2019.

11. For an example from early autumn 2019, see the so-called "Sharpiegate": www.theguardian.com/us-news/2019/sep/07/sharpiagate-trump-alabama-hurricane-dorian, accessed 1 October 2019.

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17. www.coe.int/en/web/higher-education-and-research/conference-higher-education-for-diversity-social-inclusion-and-community-a-democratic-imperative-, accessed 1 October 2019.

18. www.coe.int/en/web/higher-education-and-research/-/global-forum-on-academic-freedom-institutional-autonomy-and-the-future-of-democracy, accessed 1 October 2019.

The transatlantic co-operation has recently been extended to comprise the local mission of higher education (Bergan, Harkavy and Munck 2019), in co-operation with the Anchor Institutions Task Force.¹⁹ Engagement in and with the local community is a core part of the democratic mission of higher education. It would be inconsistent, indeed problematic, to work for democracy at national, continental or global scale but neglect one's immediate environment. To use the analogy of the whole-institution approach, the democratic mission of higher education must be a "whole-community" approach, with the community comprising local, regional, national, continental and global dimensions. We are therefore exploring how an organised European platform for co-operation on the local mission of higher education could best be established based on the three thematic conferences held so far, in Rome in 2017, in Dublin in 2018 and in Strasbourg in 2019. The next step will be to establish a small task force to consider the possibility of organising a platform that would combine advocacy and exchange of experience.

FREEDOM AND AUTONOMY TO ENGAGE

Democracy cannot exist in the absence of freedom of thought and expression, without an independent judiciary and unless the authorities organising and overseeing elections have the will and ability to ensure that these are free and fair. Democracy also will not become a reality without engaged and committed citizens willing to work for the common good and with the competences to do so.

Higher education relies on these and other core components of democracy. Additionally, there are two values specific to the academic world, academic freedom and institutional autonomy that underpin higher education's role in democratic society. These, and their importance to the future of democracy, were the focus of the 2019 Global Forum referred to above, held at the Council of Europe headquarters in Strasbourg on 20 and 21 June. The following section of our article will in particular draw on the declaration adopted by the forum (Global Forum 2019), the context that prompted this declaration at this time and the debates at the forum.

There are several reasons why the 2019 Global Forum focused on academic freedom and institutional autonomy. The immediate background is the increasing concern that the values we have come to take for granted are now under threat in ways Europe and North America have not seen for at least three decades, since the fall of the Berlin Wall. This event symbolises the political changes that extended democracy in principle to all of Europe, at least in terms of discourse and in most countries in terms of action, albeit at different levels of success. The Global Forum recognised this challenge by stating:

Significant violations of academic freedom and institutional autonomy threaten democracy. Sadly, their frequency is on the rise. Public authorities and the academic community alike must be vigilant in addressing and challenging such violations, and the responsibility for doing so does not stop at institutional or national borders. An attack on the freedom of one member of the academic community or the autonomy of

¹⁹ www.margainc.com/, accessed 1 October 2019.

one institution is an attack on the fundamental values of our democracies, regardless of where it takes place. (Global Forum 2019: paragraph 9)

While democracy has never been without potential for improvement, its basic premises are now questioned in Europe through nationalism, populism – mainly of the right but also of the left – and attempts to make “illiberal democracy” the Newspeak equivalent of the real thing. Analogous developments are occurring in the United States. The declaration adopted by the Global Forum unequivocally states that

Higher education can only fulfil its mission if faculty, staff and students enjoy academic freedom and institutions are autonomous; principles laid out in the Magna Charta Universitatum as well as the UNESCO Recommendation on the Status of Higher Education Teaching Personnel. (Global Forum 2019: paragraph 2)

As part of these developments, the freedom of academics to conduct research and publish research results independent of political, economic and other external considerations unrelated to academic norms and the autonomy of institutions are coming under increasing pressure in many countries, with the Central European University in Budapest but one example – cited here because the Provost of this university provided the keynote address at the 2019 Global Forum.²⁰

Academic freedom and institutional autonomy are not independent from academic and institutional responsibility to democracy and the common good. It not only matters what higher education institutions do, it also matters how they do it and to what ends. Among other things, that responsibility entails higher education demonstrating “openness, transparency, responsiveness and accountability as well as the will and ability to work with and contribute to the communities in which colleges and universities reside” (Global Forum 2019: paragraph 2).

The global scope of this forum is important because, while concern about the state of academic freedom and institutional autonomy is near universal, the most salient issues vary between countries and continents.

For example, the focus in the United States is largely on academic freedom and its relationship to the right to free speech on campus, most recently prompted by the alt right movement. Are these rights without limits or can universities legitimately refrain from giving a pulpit to those who would use the values of democracy to destroy its very soul by propagating hate speech, such as Nazis and other violent racists? Does my freedom of speech extend to a right to question your basic humanity?

Academic freedom is essential to both democracy and the quality of teaching and research and should therefore suffer as few restrictions as possible. The Global Forum declaration states:

Campuses must be fora of vigorous debate and honest pursuit of truth, guided by the desire to help all human beings. Any limits on freedom of expression must be based on protection of the specific rights of others (e.g., to protect against discrimination

20. www.insidehighered.com/news/2018/12/04/central-european-university-forced-out-hungary-moving-vienna, accessed 25 July 2019.

or defamation) rather than on expediency or to advance a single political ideology. (Global Forum 2019, paragraph 6)

In Europe, the focus is largely on institutional autonomy. The European and US views of the proper role of public authorities in higher education diverge significantly, which makes a transatlantic dialogue important in itself, but the dialogue is also important to develop our considerations beyond the traditional European emphasis on institutional autonomy primarily as an issue of the legal relationship between public authorities and higher education institutions.

Laws are of course important, and neither academic freedom nor institutional autonomy can exist unless a country's legal framework allows them to exist. If public authorities are able to ban or refuse to accredit specific study programmes or disciplines on ideological grounds, as recently happened with gender studies in Hungary,²¹ or to impose or ban specific schools of thought, as with Marxist philosophy in countries under Soviet influence for much of the post-Second World War period up to the fall of the Berlin Wall, the need for effective legal protection of institutional autonomy has clearly not been met in the country in question.

At the time of writing, a draft law is under consideration in the Albanian Parliament that would limit the study of the crimes committed by the Communist movement during the Second World War, arguing that "the Communist regime cannot be linked with the Anti-Fascist and National Liberation War [WWII]" because the "elimination of political enemies only started after the war"²² In the United Kingdom, a senior member of parliament – thus, a lawmaker – elicited strong rebuke from both the academic community and many political actors when he asked universities for an overview of "faculty teaching European affairs, with special reference to Brexit" as well as "copies of the syllabus and links to the online lectures which relate to this area."²³

However, laws alone cannot guarantee that rights are effectively enjoyed, and many issues related to academic freedom and institutional autonomy rely not only on a legal framework but on practice and attitudes as well as on an understanding of principles and nuances.

Neither academic freedom nor institutional autonomy is absolute, and the academic community does not exist independent of society. Few if any would argue that higher education institutions should be exempt from general laws regulating the safety of laboratories, financial accountability or the obligation to ensure fair and non-discriminatory practices for employment and access to study programmes. In democratic societies, higher education institutions are in general not free to limit or deny access to members of certain groups.

21. www.universityworldnews.com/post.php?story=20181020111651678, accessed 1 October 2019.

22. <https://balkaninsight.com/2019/07/16/albania-to-ban-the-study-of-wwii-as-part-of-communist-period/>, accessed 1 October 2019.

23. www.theguardian.com/education/2017/oct/24/universities-mccarthyism-mp-demands-list-brexit-chris-heaton-harris, accessed 1 October 2019.

Not being exempt from such general laws is not a question of whether the higher education institutions are public or private, since both are part of an education system for which public authorities are responsible, and both public and private institutions carry out a public mandate to provide higher education.

Considering institutional autonomy also implies assessing the proper role of public authorities. At least in Europe, public authorities have a clear responsibility for the education – including higher education – system, and there is strong attachment to public funding of higher education. The Ministers of the European Higher Education Area have twice stated that higher education is a public good and a public responsibility (Bologna Process 2001, 2003), and in 2012 they referred to the importance of public funding: “...we commit to securing the highest possible level of public funding for higher education and drawing on other appropriate sources, as an investment in our future” (Bologna Process 2012: 4). In Europe, it would generally be seen as legitimate for public authorities to ensure higher education provision in all parts of the country, or in academic areas considered of particular importance. Hence, public authorities would be seen as acting within their mandate if they established an institution in an underserved part of the country or financed study programmes in, for example, minority languages or areas of particular strategic or economic importance, such as programmes in artificial intelligence. It would, however, not be seen as proper for public authorities to give instructions on the details of study programmes or curricula.

The Global Forum declaration referred to these challenges:

Administrative regulations, public and private indifference, considerations of immediate return on investment, a limited view of utility, and seeing higher education only through the lens of a narrow economic agenda also threaten academic freedom and institutional autonomy. Financial regulations and arrangements should be used to further rather than to limit institutional autonomy. More broadly, academic freedom and institutional autonomy are threatened by the absence of a vision that connects the purposes of higher education to democratic purpose. (Global Forum 2019, paragraph 11)

The financing of higher education also has an impact on both academic freedom and institutional autonomy. There are at least two issues at stake. On the one hand, if a single source finances a high proportion of the overall budget, whether of the institution as a whole or of a given study programme or research project, this puts the funder in a position where it could exercise considerable influence. However, the second factor is also important: funding may also be given with strictly specified conditions that may even extend to limiting the right to make research results public or influence the content of study or hiring of faculty. For example, the US-based Center for Public Integrity in 2014 accused the Koch brothers of giving a large gift to Florida State University that stipulated both curriculum and hiring decisions.²⁴

24. <https://publicintegrity.org/federal-politics/koch-foundation-proposal-to-college-teach-our-curriculum-get-millions/>, accessed 1 October 2019. In the United States, the Koch brothers have significant economic power with a record of large donations to organisations and causes with a specific ideological agenda. David H. Koch passed away in August 2019.

The Global Forum declaration recognised issues related to funding models and conditions by stating:

Academic freedom and institutional autonomy are also threatened when financial support from individuals, private corporations, or institutional donors predominantly determines the focus of research and teaching and diminishes the public and democratic purposes of higher education. In general, public funding is fundamental, but financial support from multiple sources and financing not narrowly earmarked can strengthen academic freedom and institutional autonomy without diminishing the crucial societal role of higher education. (Global Forum 2019: paragraph 10)

A CALL FOR ACTION

Paradoxically, to some extent academic freedom and institutional autonomy depends on public authorities refraining from taking certain kinds of action. As discussed above, public authorities can limit or impede the exercise of academic freedom and institutional autonomy through legislation, policies at system level, funding decisions or – in some cases – by creating an atmosphere of insecurity in society at large.

However, academic freedom and institutional autonomy are not just a question of non-action. On the contrary, public authorities, the academic community, higher education institutions and others should take positive action to safeguard and further these fundamental values of higher education. It is worth quoting the declaration adopted by the Global Forum at some length on this issue.

The participants in the Global Forum therefore call on

Members of the academic community and their organizations

- ▶ to orient their research, learning, and teaching toward developing knowledge and understanding based on facts and science and interpreting these in a spirit of open-mindedness and respect for differences of views, backgrounds, and traditions;
- ▶ to provide broader society with factually based knowledge and to base their own participation in public debate on the same standards of truthfulness, open-mindedness and respect that should be at the base of their academic work;
- ▶ to refrain from any actions that could contribute to – or legitimize – the spread of false or misleading information, including spurious claims of “fake news” and “alternative facts”, or wilful distortion of the results of their own research or that of others.

Higher education institutions and their leaders

- ▶ to raise awareness among members of the academic community of the importance of academic freedom and institutional autonomy as well as the crucial role of higher education to democracy;
- ▶ to commit to maintaining, developing, and sustaining the public purpose and social responsibility of higher education;
- ▶ to explore the role and meaning of academic freedom and institutional autonomy within their respective institutions and systems, and the steps needed to protect these in an increasingly polarized and divided public sphere;
- ▶ to commit to – or maintain their commitment to, as the case may be – the Magna Charta Universitatum.

Higher education leaders and their organizations as well as public authorities at all levels

- ▶ to create and maintain the conditions for the academic community to enjoy freedom of research, learning, and teaching as well as the freedom to engage in public debate based on their academic work;
- ▶ to create and maintain an atmosphere of vigorous and respectful debate within their institutions and higher education systems;
- ▶ to ensure faculty, staff and students the freedom to teach, learn and research without the fear of disciplinary action, dismissal or any other form of retribution;
- ▶ to give due regard to academic freedom and institutional autonomy in setting higher education priorities, developing policies, and assessing funding options;
- ▶ to provide sufficiently secure employment conditions for faculty/academic staff to exercise academic freedom.

Public authorities

- ▶ to set the framework for academic freedom and institutional autonomy and continuously monitor the implementation of those fundamental rights, while encouraging the adoption of sustainable long-term strategies for higher education;
- ▶ to take due account of the principles of academic freedom and institutional autonomy in developing regulations and policies in other areas of public responsibility;
- ▶ to balance the need for general rules and regulations ensuring the protection of individuals and guaranteeing sound public administration with respect for the principles of academic freedom and institutional autonomy;
- ▶ to provide strong public funding as a basic requirement for autonomy and academic freedom.

The Council of Europe, the Organization of American States, and other international institutions and organizations

- ▶ to make academic freedom and institutional autonomy key elements of their work to further democracy, human rights, and the rule of law, through normative standards as well as policy;
- ▶ to address violations of academic freedom and institutional autonomy within their member States at a political level as well as through their education programmes and projects.

The Ministers of the European Higher Education Area, who will meet in Rome in June 2020

- ▶ to recommit to upholding academic freedom and institutional autonomy as part of the foundation on which the European Higher Education Area is built;
- ▶ to include the gathering of information on the respect for academic freedom and institutional autonomy in the Bologna Process Implementation Reports and to provide and facilitate the gathering of such information within their own countries and systems;
- ▶ to address violations of academic freedom and institutional autonomy at political level within the European Higher Education Area (EHEA), in view of their collective political responsibility for the EHEA.

The Council of Europe, the International Consortium for Higher Education, Civic Responsibility and Democracy, the Organization of American States, and other partners in our co-operation on the democratic mission of higher education

- ▶ to continue their work to strengthen the role of higher education in developing, maintaining, and sustaining democratic societies;
- ▶ to continue to highlight the importance of academic freedom and institutional autonomy in furthering higher education's democratic mission as well as to develop policy proposals and engage in public advocacy to more fully achieve that mission. (Global Forum 2019).

CONCLUSION

We hope to have demonstrated the importance not only of higher education institutions and the academic community engaging with the significant burning issues we face as societies, but at the heart of the mission of higher education. Indeed, this should be part of higher education's DNA. Our societies cannot prosper or even survive without the engagement and contribution of higher education.

In our view, higher education cannot fully play this role except in democratic societies, which provide fertile soil for the free exchange of ideas and the unfettered pursuit of knowledge to improve human welfare. Democracy is vital in enabling higher education to play its societal role, but higher education is equally vital in safeguarding and developing democracy.

The democratic mission of higher education, which is the foundation of the engaged university, is largely an issue of how higher education works with its local community, the broader society and the world. However, higher education cannot play its proper role in furthering democracy – as well as in furthering the quality of research, teaching and learning – unless it enjoys academic freedom and institutional autonomy. This is not a privilege but a condition for higher education to make its full contribution to the society of which it is a part.

On the face of it, this is a straightforward statement with which it would seem difficult to disagree on grounds of principle. Nevertheless, translating the basic principle into legislation, policy and practice is far from straightforward. We hope to have explored some of the complexity of the issue, which is a considerable challenge to the academic community as well as to those in broader society who wish to further democracy.

Our task as educators and policy makers is to continue to explore the many issues of academic freedom and institutional autonomy, to strengthen higher education and to strengthen democracy. Few sectors of society are better placed than higher education to develop the competences required for voting, participation, respectful deliberation, and democratic problem-solving. Rarely has this task been as urgent as it is now. Higher education must engage today to help develop and maintain the kind of society in which we would like to live tomorrow.

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Academic freedom, university autonomy and democracy's future in Europe

Liviu Matei

ABSTRACT

This paper was delivered as a keynote address at the 2019 Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy. It makes the point about the existence of a crisis of academic freedom presently that is specific to Europe, or the European Higher Education Area, and discusses the nature and origins of this crisis. The crisis of academic freedom in Europe is both intellectual and empiric. The paper raises questions about how the relationship between higher education and democracy should be analysed and understood, in view of this crisis of academic freedom.

Keywords: academic freedom; European Higher Education Area; democracy; crisis of academic freedom.

2019 – A YEAR OF CELEBRATION IN EUROPEAN HIGHER EDUCATION?

This is an important time to deliberate about academic freedom, institutional autonomy and the future of democracy in Europe. News about recent developments are mainly not good. Unfortunately, the subtitle of this chapter could very well be “The crisis of academic freedom in Europe”. Because, let it be said clearly, we are in the middle of a crisis of academic freedom in Europe.

I would like, however, to start on a positive note and with a few words of gratitude. Fortunately, there is good reason for that.

The year 2019 is a year of celebrations in European higher education. It is the 20th anniversary of the Bologna Process. Whatever the shortcomings of this process, and there are many (Matei, Craciun and Torotcoi 2018; Vögtle 2019), we have a lot to celebrate. Higher education has advanced significantly during this time and at least in part due to this pan-European initiative and process. The most important achievement, for me, is the creation of a common space for dialogue and action in higher education comprising basically the entire European continent, which has made innovation and progress possible. This is an unprecedented development in the history of higher education. The Bologna Process as a whole is breathtaking in the magnitude of transformations it has made possible.

Many well-known European organisations have made a contribution to the vast changes of the last 20 years in the EHEA.²⁵ So have many anonymous individuals: academics, administrators, policy makers and students. These are the people I like to call “the Bologna soldiers”. I am one of them myself. The year 2019 should be their celebration. In this celebratory year, I would like to acknowledge those who made Bologna and the European Higher Education Area happen, before I get to my precise subject regarding academic freedom.

History is ungrateful not only to the foot soldiers in higher education, who remain anonymous, but also to the leaders and ground breakers, who most often remain anonymous as well. We rarely know where major initiatives, that have changed the face of higher education, if not the world, originate. Who had the idea of the GI Bill in the US in 1944, which probably opened the door to the massification of higher education? Who exactly in 1999-2000 had the idea of a European strategy for a knowledge society, and as part of this, of a European Research Area? Who invented the Erasmus programme? Very few know, and no particular individual gets recognition for that particular pioneering undertaking. It is not publicly known who exactly had the idea for the Bologna Process itself,²⁶ let alone for its many important discrete initiatives. Neither the general public nor even most of the people who have studied or worked in universities in the EHEA in the last 20 years and whose lives have been dramatically impacted by this process know who devised it.

I would like to acknowledge the Council of Europe, which hosted the 2019 Global Forum that focused on the issues of academic freedom and institutional autonomy. The Council deserves recognition as one of the most important pan-European organisations that has supported and influenced decisively and positively the direction of the Bologna Process. The contribution of the Council of Europe has been important not only in the conceptual design or the operationalisation of technical aspects of the Bologna reforms, but also as a steady advocate for the inclusion of aspects that have to do with values, including academic freedom and

25. The relationship between the Bologna Process, the EHEA and the European Research Area (ERA) can be described as follows: “The Bologna Process, launched with the Bologna Declaration of 1999, is a voluntary intergovernmental process in higher education based on jointly agreed principles, objectives and standards. Currently, there are 48 European states implementing the Bologna Process, which constitute the European Higher Education Area (EHEA). The EHEA, as the common European space for higher education, is considered a result of the Bologna Process. The European Research Area (ERA), which emerged at about the same time as the EHEA, developed as a major initiative under the Lisbon Agenda, the EU’s overarching strategy between 2000 and 2010. The ERA is defined as a “unified research area open to the world based on the Internal Market, in which researchers, scientific knowledge and technology circulate freely and through which the Union and its Member States strengthen their scientific and technological bases, their competitiveness and their capacity to collectively address grand challenges.” (Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007) (Matei and Iwinska 2018: 346).

26. Four ministers of education, from France, Germany, Italy and the UK, in office between 1988 and 1999, are usually credited, in small policy and scholarly circles, with starting the Bologna Process. Their names are not known or are not associated with starting the process outside these circles.

university autonomy. This is reflected in the topic of the Global Forum and also in the declaration that was adopted at the forum's conclusion.²⁷

As a “Bologna soldier” myself, as someone who has lived (or lived through!) this process from the very beginning as a teacher, university and ministry administrator and as a higher education researcher, I had the chance to get to know personally or learn about individuals who have made major contributions to the Bologna Process, and to the advancement of higher education in Europe more generally in the last 20 years. They are not soldiers, but the generals and marshals of the Bologna Process – and they deserve recognition for that.

Among them, I would like to take the liberty of citing one name, that of Sjur Bergan, Head of the Council of Europe's Education Department and host of the Global Forum. It would not be fair, of course, to single out Mr Bergan alone as a “Bologna Process general” and picture him as a warrior leading troops within and across the borders of the EHEA with a flag and a general's baton! It is fully justified, however, to recognise him as one of the elders of European higher education and the European Higher Education Area. Many of us have benefited from his wisdom over the years. He has anonymously, but always effectively, made a mark on important developments and initiatives in many areas of higher education, including university autonomy and academic freedom, which is the focus of this book and my chapter.

ACADEMIC FREEDOM IN EUROPE: THE NATURE OF THE CRISIS

University autonomy and academic freedom are matters of global relevance. They are also global challenges (de Wit and Hanson 2016; Ignatieff and Roch 2018). As fundamental values in higher education, they are needed everywhere and are invoked in all parts of the world. They are universal values. And yet, as policy concepts and practical facets of university governance, they tend to, and need to, acquire specificities that have to do with particular contexts. For example, regional cultural and intellectual traditions or regional policy and regulatory frameworks create specific dynamics with regard to academic freedom and university autonomy. It is with this observation in mind that I would like to argue that we in Europe, in the European Higher Education Area more precisely, are presently facing a crisis of academic freedom. The situation of academic freedom is in many respects different in Europe than in other regions of the planet, which are not without challenges either. There are significant differences in the intellectual traditions and contemporary political epistemologies (Ren and Li 2013; Matei and Iwinska 2018) that underpin attitudes, actions and regulations about, as well as the practice of, academic freedom and university autonomy. The United States is to a significant extent different in this regard from Europe, in particular considering the emphasis on tenure in the US. Europe is also different from South-East Asia or Australia. There is also very significant variation within Europe itself, including national differences having to do with traditions, legislation and regulations, and with the nature of the

27. A “Declaration” was adopted by the Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy on 21 June 2019, available at <https://rm.coe.int/global-forum-declaration-global-forum-final-21-06-19-003-/16809523e5> (accessed 15 August 2019) and included in this publication.

current political regimes. And yet, there is something that is common to Europe, specifically *European* in higher education and in academic freedom. Somewhat diffuse, a European dimension predated the Bologna Process. It has been augmented and made into a defining element of our work in higher education by the emergence of the European Higher Education Area that brings together, formally and also operationally, the higher education systems of the continent in this *sui generis* common European space for higher education.

Why talk about a crisis of academic freedom in Europe? And after having just mentioned reasons for celebration and unprecedented achievements in European higher education, is it justified to talk about a crisis? What is its nature anyway, if there is one? Is there a way out? If there is a way out, is it a European one? Is there a European solution to a European crisis? Should any solution be based, instead, on global perspectives? Or, perhaps, at the other extreme, rather on national efforts and regulations? What does this crisis of academic freedom have to do with university autonomy and with democracy's future, which was the overall topic of the Global Forum?

I would like to propose that there are two main dimensions to the crisis of academic freedom in Europe. One is more intellectual in nature, or perhaps I could call it conceptual. By this, I basically mean that we simply lack a clear conceptual articulation of academic freedom in Europe, one that would have academic, legal, regulatory or policy relevance. We do have a European Higher Education Area, with common principles, standards, tools, values and regulations, but there is no conceptual reference within it for academic freedom. This is a major intellectual ravine, which creates or at least does not help to address European-wide, national and also institutional challenges. We in Europe have built an imposing, if sometimes incomplete and quite uneven, continental-wide abode for higher education with daring, innovation and, more often than not, functioning parts. However, we have forgotten or ignored thinking about academic freedom when building it. To use a metaphor, this is as if a builder forgets to design and build a ventilation system in a complex building compound. For this reason, in many corners of the EHEA at present it is difficult to breathe – and some individuals and institutions are simply suffocating, as will be illustrated below.

The second dimension of the crisis of academic freedom is indeed empiric, down to earth: academic freedom is under attack in many European countries, including in the European Union.

Academic freedom is challenged, even threatened, in many places in Europe. This is a recent development. It is in part a result of a changing political climate in the past 5-10 years, with new ideologies and public policy narratives that undervalue freedoms more generally, including the freedom of science and advanced education (de Wit and Hanson 2016; Matei and Iwinska 2018). A new political epistemology is spreading in Europe (Matei and Iwinska 2018). The last few years have marked the corrosion of the centrality of policy concepts supportive of university autonomy and academic freedom, such as the knowledge society, democratisation, Europeanisation and social inclusion, in the thinking and action of powerful political forces. This new political epistemology is not supportive of higher education in general and may not tolerate academic freedom.

The most severe situation in the European Union (EU) is in Hungary. In 2010, the Hungarian Constitution was amended, the principle of academic freedom was abolished and substituted by the principle of government control of research and higher education. Some new language also suggested the primacy of the principle of national pride, as defined by the government, over truth in research and academic endeavours (Chikan 2017; Kenesei 2017). My own institution, the Central European University (CEU), has been subject to repeated attacks from the government since 2017. It was forced to go into exile and began to move all its operations to another country in autumn 2019. This is an unprecedented, unexpected and even unbelievable development in an EU member state in the 21st century. Other Hungarian universities, while remaining open for business in Hungary, are subject to a degree of political and administrative control from the government that is reminiscent of the totalitarian regimes of the 20th century (Ziegler 2019). More recently, the government decided to take control over, and finally disband, the network of research institutes of the Hungarian Academy of Sciences, the most prestigious research institution in Hungary, with a history of excellence and relevance extending over 150 years (Zubaşcu 2019). Individual researchers and entire research teams from the academy announced that, like my colleagues from the CEU, they too would be forced to leave the country. The president of the academy, a world-famous mathematician, winner of the Wolf, Knuth and Kyoto prizes, bemoaned in a public address that, unlike the CEU, his institution cannot move to Vienna in neighbouring Austria and all its research capacity and output will simply be destroyed by the government. "How can I take the Hungarian Academy to Austria?" he asked.²⁸

There are many other cases of infringement of academic freedom in Europe. Some are well known, others less so; some quite extreme, others more insidious.

The severe restrictions on academic freedom in Turkey are public knowledge. The government of President Recep Tayyip Erdoğan has closed down entire institutions, fired faculty and administrative staff and sent academics and students to jail by the thousands in the wake of the coup of 2016 (Caglar 2017; O'Malley 2017; EUA 2019). Turkey is not a member of the EU, but it is a European country and an important member of the European Higher Education Area.

The situation is not identical nor equally bad in all EU and EHEA countries. But there are worrying signs elsewhere too, including in the West. Cases were reported in Germany, including at least one court case in 2019, of sympathisers and politicians of an extreme right party, Alternative für Deutschland (Alternative for Germany; AfD), attacking, threatening and trying to intimidate German academics and students for views they expressed in, or regarding, their research and teaching and learning (Matthews 2018; WZB 2019). AfD has taken direct aim at higher education, contesting not only Bologna principles and practices such as internationalisation and increased access, but also fundamental values like academic freedom

28. The statement of the President of the Hungarian Academy was extensively reported and discussed in the international and domestic media. The Academy dedicated a special page to the matter on its website: https://mta.hu/mta_hirei/az-akademia-nem-tud-becsbe-koltozni-a-magyaroknak-kell-tamogatniuk-minket-kulfoldi-es-hazai-beszamolok-az-mta-nemzetkozi-sajtotajekoztatojarol-109818, accessed 15 August 2019.

(Gardiner 2018). Protection of academic freedom remains strong in Germany but imagine how this would change should a political force like AfD get the power to review legislation or the regulatory framework in the country. No wonder academics and students in Germany are worried.

In 2017, after the referendum on Brexit, a member of the UK Parliament from the Conservative Party, Chris Heaton-Harris, sent a letter asking that universities declare what they are teaching about Brexit and that they submit without delay to his office the names of any academic teaching European affairs and related subjects, anything with reference to Brexit in particular (Kentish 2017). He also asked for all teaching materials, paper-based or online, used by these academics to be sent to him immediately. Of course, the UK being a country with a strong tradition of academic freedom, perhaps the strongest in Europe, the vice-chancellors refused to comply and invited that MP to travel to hell instead. This incident, however, remains a significant attempt at intimidation and restriction of academic freedom. It generated a lot of emotion in the UK and raised questions about how such a thing could even happen in a country reputed to be among the most democratic in the world.

At a European conference I attended in 2017,²⁹ a highly respected higher education policy maker from Belgium, who has served as a senior public official in one of the country's two ministries of education over a long period of time, stated openly, and angrily, that academic freedom is a concept of the past, a privilege of a small elite, and therefore in no need of being protected or perpetuated. He further said that we should all simply stop talking about academic freedom in Europe, because it is not a value or principle that makes any sense today – just forget about it and move forward.

Do examples like these, however, support the assertion that there is a crisis of academic freedom in Europe? Some people would disagree. A German researcher in academic freedom argued forcefully at a workshop with German rectors, without using these exact words, that there is no crisis of academic freedom in Europe, that trends might be rather positive. In any case, she maintained on another occasion, we cannot know if there are systematic infringements of academic freedom because we do not really know what academic freedom is, we do not have a definition for it, and there is no system in place to measure or monitor academic freedom in Europe or elsewhere: “How severe are such infringements around the world today? This question is very timely and highly pertinent, yet difficult to answer. When assessing severity, we first have to clarify our yardstick” (Kinzelbach 2018: 13).

I would like to argue that the list of recent incidents involving infringement, restriction or even suppression of academic freedom is sufficient to make us worry. In fact, it proves the point about a real-life, empiric dimension of the crisis of academic freedom. I have already referred to what I believe to be the source for this situation of crisis: changing political epistemologies, public policy narratives and ideological stances in Europe. This source is, therefore, external to the higher education systems themselves.

29. Bologna Researchers Conference, see www.ehea.info/cid118006/bologna-process-researchers-conference.html, accessed 30 September 2019.

It is equally important, however, to note that the crisis of academic freedom in Europe is also the result of internal evolutions within higher education, and more specifically within the Bologna Process itself. We have witnessed unprecedented developments in higher education in Europe since the signing of the Sorbonne and Bologna Declarations in 1998 and 1999, respectively. With all its imperfections, the creation of a European space for policy dialogue and action in higher education is a major achievement of historic proportions. Apart from its continental-wide political geography, the EHEA has also brought about unprecedented developments in the structures and substance of higher education in Europe. They were all results of elaborate processes of reflection and preparation over many years, of sustained and high-level intellectual inquiry and policy and professional planning: the implementation of a new structure of degree programmes in Europe; the emergence of European models of master's and doctoral education; the emergence of a European model of quality assurance; new principles and tools in higher education policy and management; some new developments in higher education pedagogy, etc. A work in progress, the EHEA is a fascinating story of exceptional ambitions articulated on a national and continental scale. It is a story of many failures but also of extraordinary achievements. All the achievements have been based on carefully devised blueprints, with intellectual, professional and policy dimensions.

Academic freedom cannot be counted among the achievements. It has been systematically neglected in the Bologna Process, until recently. For almost 20 years, we have taken academic freedom for granted, we have not thought about it. Save for a few brave but isolated attempts, some led by the Council of Europe and the Head of its Education Department, Sjur Bergan, we have not even talked much about academic freedom, let alone made it a part of the core intellectual and policy reflection in higher education. Academic freedom is an underdeveloped and undervalued concept in the EHEA. There is no European definition, conceptual reference or model for academic freedom. There is no blueprint of any kind for academic freedom. This makes it difficult to monitor academic freedom, to develop and evaluate policies and practices for which academic freedom is or should be relevant. This intellectual and policy underdevelopment results in major challenges when it comes to practising and defending academic freedom.

Let me illustrate this with one more example. To its credit, the European Commission tried to address the worrying evolutions in higher education in Hungary, a member state of the EU. The Commission sued Hungary over the new legislation that forced my university out of the country, the infamous Lex CEU of 2017 (Matei and Orosz 2017). In the Commission's original submission to the European Court of Justice, a clear allegation of infringement of academic freedom was made (Rankin 2017). In a letter to the Hungarian government representing the second step in launching the "infringement proceedings", the Commission nevertheless stressed rather the commercial legal aspect and noted that Lex CEU:

is not compatible with the fundamental internal market freedoms, notably the freedom to provide services ... and the freedom of establishment ..., but also not compatible with the right of academic freedom, the right to education and the freedom to conduct a business as provided by the Charter of Fundamental Rights of the European Union ..., as well as not compatible with the Union's legal obligations under

international trade law (the General Agreement on Trade in Services – GATS – in the framework of the World Trade Organization, WTO). (European Commission, 2017)

The Hungarian government countered almost immediately, contesting the very existence of any European legal ground to make a case for academic freedom (Novak 2017). “What is the ground to sue us in a European court, for infringement of academic freedom?”, they asked. Consequently, and implicitly acknowledging that there is no or no clear or useful European reference, the Commission changed the charge. When the first hearing in this case took place in June 2019 in Luxembourg (two years after the adoption of the law in Hungary), it was not clear whether the case would be primarily if not exclusively about the right of establishment and delivery of commercial services, rather than about academic freedom!

This grim situation that I am describing in Europe, however, has a silver lining, like any crisis. Last year, the ministers responsible for higher education in the EHEA countries agreed to bring academic freedom, integrity and university autonomy to the forefront of the Bologna policy dialogue. A sentence to this effect was included in the Paris Ministerial Communiqué of 2018 (Bologna Process 2018).

Speaking of important anonymous contributions in higher education, whoever had this sentence added to the communiqué deserves recognition. This is potentially a major breakthrough. Subsequently, a working group was appointed to come up with an initial proposal for a European reference definition for academic freedom, along with possible mechanisms for its monitoring and protection, to be considered by the ministers, perhaps as early as in 2020, at their next meeting. Work seems to have started seriously to find a European solution to the European crisis of academic freedom. Of course, this work is not done yet and, as with other worthy Bologna initiatives, it may lead to a dead end or to a half-baked artefact. I for one am confident that will not be the case and am optimistic about the result.

QUESTIONS ABOUT ACADEMIC FREEDOM, UNIVERSITY AUTONOMY AND DEMOCRACY

My intention in this chapter was to draw attention to the existence of a crisis of academic freedom in the EHEA, with its twofold nature, conceptual and empiric. Moreover, I wanted to make the point about the need for and the possibility of a European solution to this crisis.

This being said, I would also like to share briefly a few thoughts that are related to the topic more generally, keeping in mind the point about the need for a specific endeavour to develop a European reference for academic freedom. I will provide a rough outline of these thoughts for now.

What is the relationship between academic freedom and democracy, and between academic freedom and democracy’s future?

We in Europe have made several mistakes in the past 20 years as we have tried to build a common area in higher education. For example, we have taken the persistence of academic freedom for granted. In part, I believe, this is because after the fall of the Berlin Wall and the communist totalitarian regimes, we assumed that

the only direction would be towards more, and stronger, democracy everywhere in Europe. We took the unabated march towards more democracy for granted. We see now that that is not the case. Not only in Hungary, but in other European countries as well, democracy is contested, abandoned, mutilated. The exuberant march of democracy in Europe may have come to a halt, at least for now, and we are in times of democratic recession.

That is a problem, because academic freedom can only exist and be practised in democracies. Or perhaps that is not necessarily the case? Is it possible to have academic freedom in a non-democratic regime such as Hungary, Russia or Turkey? The obligations of universities with regard to democracy in a democratic regime are relatively clear and the Council of Europe has worked tirelessly on this subject for several decades, even developing quite precise guidelines.³⁰ But what should universities do in a non-democratic regime? What can they do?

On the one hand, it is an illusion to assume that universities are always on the side of democracy. In fact, in many historical situations, universities have contributed to strengthening and reproducing non-democratic, even repressive regimes.

Should universities engage openly and directly in promoting democracy in non-democratic regimes? Of course. But they can only do so through their specific means, primarily through education and research. And this comes with severe limitations. Universities cannot overturn dictatorships. In fact, in many situations there is very little universities can do to protect, assert or promote freedoms, including their own. Not only in Nazi Germany or in the Soviet Union, but also in today's Hungary, Turkey, Russia and in other countries, there is very little universities can do for freedom and democracy. They can try to speak up. They can try to negotiate. But when the name of the interlocutor on the other side of the table is Putin, Erdoğan or even Orbán, there is nothing to negotiate because there is no room for a negotiated solution, or any democratic solution. Universities can fight for democracy, and many do, or individuals in universities do. In many situations, however, they simply cannot win, or at least not in the short run. Remember the huge student protests of the 1980s in Burma, for example? Students and academics fought bravely. Those protests, however, ended up in killings, imprisonment and more repression. We should be careful what we ask for from the universities in building democracy; in particular we should be careful about what they can really do. To mention another example, the CEU led a global campaign in defence of academic freedom, with immense support from ordinary citizens, other higher education institutions in Hungary and from abroad, international organisations, even other governments (Matei and Orosz 2017). And still we lost, we are losing, we need to go into exile. We cannot win against a regime that is undemocratic, even in the EU.

We need to keep in mind that what universities can do for democracy is different in democratic and non-democratic regimes. Almost all normative models that exist assume democratic and also rational states. Alas, they are not all like that.

30. For example, through the Competences for Democratic Culture; see www.coe.int/en/web/education/competences-for-democratic-culture, accessed 10 October 2019.

What is the relationship between university autonomy, academic freedom and democracy's future?

I will only comment on this briefly, again in the specific current European context. It is both remarkable and surprising to note that a European conceptual model, a European common reference, exists for university autonomy, along with a system for measuring and monitoring (Pruvot and Estermann 2017). There is nothing similar for academic freedom. Understanding this situation is very informative for the understanding of the crisis of academic freedom (Matei and Iwinska 2018). The European model of autonomy, the "autonomy scorecard", was developed by the European University Association starting in 2007-2008.³¹ It has become extremely influential in Europe and also in other parts of the world (Matei and Iwinska 2018). Why is there not even a single mention of academic freedom in this model of university autonomy, which is exposed in several publications, over hundreds of pages of text and tables with numbers resulting from monitoring? Why was no similar model developed for academic freedom? This situation is additional proof of the neglect of academic freedom in Europe. It is also a symptom of the conceptual underdevelopment of academic freedom.

We do not quite know in Europe what academic freedom is or what its relation to institutional autonomy is. Are they the same thing or distinct facets of a single variable? Is one a precondition for the other?

CONCLUSION

Through forward-looking higher education, the Bologna Process aims to support the development of economically advanced, socially inclusive, politically democratic and stable European societies. It is a process aimed at building a European *ethos* and perhaps even a European *demos* (Matei, Craciun and Torotcoi 2018). These ambitions cannot be pursued effectively without legal, public policy and institutional environments that protect academic freedom. Without academic freedom, higher education suffocates. It is time to stop neglecting this important concept, principle and value. A major first step should be the development of a common EHEA conceptual reference for academic freedom. The good news is that although this process may take time, and many will continue to suffer until it is eventually completed, the work towards such a reference has started. This is eminently good news. May it give us hope, in a time of crisis.

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31. See www.university-autonomy.eu/, accessed 11 September 2019.

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Academic freedom and institutional autonomy – What role in and for the EHEA?

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ABSTRACT

Academic freedom and institutional autonomy have often been two sides of the same coin, and they have been considered mainly in terms of the legal relationship between public authorities and higher education institutions. This chapter argues that it is imperative to develop a more nuanced understanding of these fundamental values of the European Higher Education Area (EHEA) and of higher education more broadly. While recognising that some violations of academic freedom and institutional autonomy are highly political, the chapter explores a range of less high-profile but nonetheless crucial issues, including the role of public authorities in developing higher education systems and policies, the role of funding and governance models and the influence of general legislation such as labour laws and safety regulations.

Keywords: academic freedom; institutional autonomy; public responsibility; governance; funding; stakeholders.

INTRODUCTION

Academic freedom and institutional autonomy are fundamental values of the European Higher Education Area (EHEA). There are also other fundamental values, including student participation in governance (Bologna Process 2004).³² While the fundamental values of the EHEA were long taken for granted, this started to change around 2015. The background, among other things, involved the discussion around the admission of Belarus to the EHEA, which was associated with a road map (Bologna Process 2015a) in which considerations of fundamental values played a part, spurred on by developments in other EHEA member states, including Hungary and Russia. Fundamental values were also included in the report on the Belarus road map presented to ministers at the Paris Ministerial Conference in May 2018 (Bologna Process 2018a).

By then, the discussion of fundamental values had taken on new importance within the EHEA, as reflected in the Paris Communiqué, which underlines that:

32. The document refers to five “principles”: mobility of students and staff; autonomous universities; student participation in the governance of universities; public responsibility for higher education; the importance of the social dimension of the Bologna Process.

Academic freedom and integrity, institutional autonomy, participation of students and staff in higher education governance, and public responsibility for and of higher education form the backbone of the EHEA. Having seen these fundamental values challenged in recent years in some of our countries, we strongly commit to promoting and protecting them in the entire EHEA through intensified political dialogue and co-operation. (Bologna Process 2018b: 1)

The renewed emphasis on fundamental values was also reflected in discussion within the Bologna Follow-Up Group, in particular through a thematic session at its meeting in Bratislava in December 2016. This chapter builds on and updates the discussion note we wrote for this meeting (Bergan et al. 2016).

The basic standard for academic freedom and institutional autonomy is the Magna Charta Universitatum (1988), at the time of writing (end of August 2019) signed by 889 universities from 89 countries.³³ New signatories are normally added at the annual meeting of the Magna Charta Observatory, most commonly held in late September (the Magna Charta Universitatum was adopted on 21 September 1988) or early October.

Another important reference is the European University Association Autonomy Scorecard (Pruvot and Estermann 2017), which seeks to measure institutional autonomy and to enable readers to compare the degree of autonomy in different European countries. The most recent version encompasses 29 countries and focuses on four areas: organisational, financial, staffing and academic autonomy.³⁴

While academic freedom and institutional autonomy are often featured in the news in conjunction with political crises, during which these fundamental values are particularly challenged, academic freedom and institutional autonomy are issues in all democratic societies. This article therefore seeks to establish why academic freedom and institutional autonomy are important, as well as to explore various aspects of academic freedom and institutional autonomy.

WHY ARE ACADEMIC FREEDOM AND INSTITUTIONAL AUTONOMY IMPORTANT?

While there are several reasons why academic freedom and institutional autonomy are important, two main reasons stand out. Academic freedom and institutional autonomy are essential to democratic societies, and they are essential to improving and maintaining the quality of higher education and research.

Academic freedom and institutional autonomy as a measure of democracy

Academic freedom and institutional autonomy are key features of democratic societies. The Fundamental Principles of the Magna Charta Universitatum (1988) underlines the need for institutions to be independent of political authority and

33. An overview of signatories by country may be found at www.magna-charta.org/magna-charta-universitatum/signatory-universities, accessed 23 August 2019.

34. See www.university-autonomy.eu/, accessed 23 August 2019, through which previous versions of the Scorecard are also available.

economic power, whereas the preamble to the Council of Europe recommendation on the public responsibility for academic freedom and institutional autonomy states that “higher education is crucial to the development and maintenance of the democratic culture and is indispensable for democratic societies to become a reality as well as for the social cohesion of European societies” (Council of Europe 2012: Preamble).

It is difficult to imagine democracy without academic freedom and institutional autonomy, and it is equally difficult to imagine that these fundamental values would flourish in the absence of democracy. It is also worth underlining that our understanding of democracy is not limited to institutions, legislation and procedures (exemplified as parliaments, constitutions and elections) but extends to democratic culture, i.e. the set of attitudes and behaviours required to make democratic institutions and laws function in practice. Education, including higher education, plays a key role in developing democratic culture.³⁵

These fundamental values challenge democratic societies in various ways in “normal” situations, and this chapter will focus on the everyday aspect of democracy, academic freedom and institutional autonomy. We have, however, also seen several situations in which academic freedom and institutional autonomy have been threatened for political reasons, including in EHEA member countries.

This also entails a moral obligation on higher education institutions to contribute to broader societal debate and development. They should do so by educating graduates who hold well-considered views on the development of our societies and feel a commitment to public space, as well as by engaging in society as institutions by fulfilling what is often referred to as the “third” or civic mission of higher education, through contributions to public debate as well as by working with local communities, for instance.

Academic freedom and institutional autonomy as a means to enhance quality

Academic freedom and institutional autonomy are important in furthering the quality³⁶ of higher education and research. New knowledge cannot easily be developed if established dogmas cannot be questioned. The quality of education and research therefore depends on academic freedom and institutional autonomy.

At the same time, this statement raises some further issues: who defines quality and according to what standards? Who is responsible for developing and implementing policies to enhance quality, and what is the relative role of public authorities, institutional leadership and individual academics? These questions touch directly on issues of academic freedom and institutional leadership.

35. See the Council of Europe project on Competences for Democratic Culture: www.coe.int/en/web/education/competences-for-democratic-culture, accessed 23 August 2019.

36. The term “quality” is preferred here to “excellence”, which now tends to refer to high-quality research in certain disciplines and the efforts of public authorities and institutions to further such quality, as in “excellent initiatives” or “excellence programmes”.

Freedom, autonomy, accountability and transparency

Autonomy and responsibility could be seen as two sides of the same coin. Issues of freedom and autonomy raise issues of accountability and transparency.³⁷ Whether they are publicly financed or not, higher education institutions as well as individual members of the academic community play roles of public importance. Public authorities and society at large rightfully have expectations of higher education institutions and of the academic community. Whether these expectations are reasonable or not should be the subject of societal dialogue. While institutions and individual members of the academic community may find they sometimes need to resist demands by public authorities or by society at large, the principle of society and public authorities making demands on higher education is not in doubt.

A part of accountability is being transparent. Transparency about working methods is an accepted standard of research so that experiments may be replicated, and methodological soundness assessed. Transparency about governance and reporting strengthens the credibility of institutional governance and objectives, at least where institutions operate ethically and follow sound governance standards.

For all these reasons, it is worth recalling that academic freedom and institutional autonomy are key values of the EHEA, that the Bologna Declaration (Bologna Process 1999) explicitly refers to the Magna Charta Universitatum, and that respect for academic freedom and institutional autonomy is among the criteria for accession to the EHEA, as well as one of the elements on which compliance with EHEA values and policies should be judged.

ACADEMIC FREEDOM AND INSTITUTIONAL AUTONOMY – TWO SIDES OF THE SAME COIN?

Academic freedom and institutional autonomy are generally considered together and often seem to be considered as intrinsically linked. It is nevertheless important to distinguish between the two.

Academic freedom

Academic freedom refers to the freedom of individual members of the academic community to pursue their research, teaching and learning. In the words of the Magna Charta Universitatum (1988: paragraph 3):

Freedom in research and training is the fundamental principle of university life, and governments and universities, each as far as in them lies, must ensure respect for this fundamental requirement. Rejecting intolerance and always open to dialogue, a university is an ideal meeting-ground for teachers capable of imparting their knowledge and well equipped to develop it by research and innovation and for students entitled, able and willing to enrich their minds with that knowledge.

37. The Council of Europe has established a Platform on Ethics, Transparency and Integrity in Education (ETINED), see www.coe.int/en/web/ethics-transparency-integrity-in-education/about-etined, accessed 23 August 2019. The International Association of Universities and the Magna Charta Observatory have developed Guidelines for an institutional code of ethics in higher education, see https://iau-aiu.net/IMG/pdf/ethics_guidelines_finaldef_08.02.13.pdf, accessed 23 August 2019.

Academic freedom has much in common with freedom of expression but the two should not be confused. Academic freedom does not free members of the academic community from conducting their research, teaching and learning and from developing their conclusions and opinions in accordance with the standards of their academic disciplines. By way of example, freedom of expression would include the right to claim that the earth is flat, even if this view would be rejected by almost all members of society.³⁸ However, a teacher or student of astrophysics could not invoke academic freedom to express such a view, since the contention that the earth is flat could not be supported by evidence produced in accordance with the standards of astrophysics.

At the same time, the standards of academic disciplines evolve with new research, in large part thanks to those who question essential parts of the research consensus. A particularly striking example of the conflict between tradition and new research is medicine and natural sciences in 16th-century Europe, where teaching was still strongly influenced by the traditions of Antiquity, whereas research gradually developed a very different view of the human body and the natural world. University teachers found themselves in the position of teaching in accordance with tradition while their research led them to different conclusions (de Ridder-Symoens 2006).

Institutional autonomy

Institutional autonomy refers to the ability of higher education institutions to set and implement their own policies and priorities for teaching and research, perhaps also other aspects of their mission, such as community service.

The Magna Charta Universitatum emphasises that:

the university is an autonomous institution at the heart of societies differently organised because of geography and historical heritage ... To meet the needs of the world around it, its research and teaching must be morally and intellectually independent of all political authority and economic power. (Magna Charta Universitatum 1988: paragraph 1)

In the words of the Council of Europe recommendation on the responsibility of public authorities for academic freedom and institutional autonomy:

Institutional autonomy, in its full scope, encompasses the autonomy of teaching and research as well as financial, organisational and staffing autonomy. Institutional autonomy should be a dynamic concept evolving in the light of good practice. (Council of Europe 2012: paragraph 6)

The International Association of Universities'(IAU) policy statement on academic freedom, university autonomy and social responsibility defines institutional autonomy as:

the necessary degree of independence from external interference that the University requires in respect of its internal organisation and governance, the internal distribution

38. But not quite all – there is a Flat Earth Society: www.theflatearthsociety.org/cms/, accessed 23 August 2019.

of financial resources and the generation of income from non-public sources, the recruitment of its staff, the setting of the conditions of study and, finally, the freedom to conduct teaching and research. (IAU 1998: paragraph 1)

The policy statement defines academic freedom as “the freedom for members of the academic community – that is scholars, teachers and students – to follow their scholarly activities within a framework determined by that community in respect of ethical rules and international standards, and without outside pressure” (ibid., paragraph 2). It will be noted that these definitions explicitly include independence from external interference and the dimension of governance.

There is generally assumed to be a strong link between academic freedom and institutional autonomy and in many – probably most – cases this assumption is sound. The link is, however, not a logical necessity. It is perfectly possible to imagine a highly autonomous institution with a strong leadership that does not leave much room for academic freedom within the institution. The opposite – academic freedom without institutional autonomy – is perhaps more difficult to imagine but one could at least imagine an institution with a high degree of academic freedom and such a decentralised structure that there would be little in terms of effective institutional leadership and hence also little institutional autonomy.

THE RESPONSIBILITY OF HIGHER EDUCATION INSTITUTIONS

With academic freedom and institutional autonomy come responsibilities to society. Regardless of whether and the extent to which institutions are publicly funded, they play important roles in and for society. In the words of the IAU policy statement: “Rights confer obligations. These obligations are as much incumbent on the individuals and on the University of which they are part, as they are upon the State and Society” (IAU 1998: paragraph 3).

Obligations incumbent on the academic community and its members include abiding by, upholding and developing the standards of the discipline as well as the obligation of quality, ethics and tolerance. The academic community and its members should seek to work for the best of society, which may in given situations entail a moral obligation to oppose and seek to influence public authorities and/or the prevailing public opinion.

Academic freedom and institutional autonomy are not ends in themselves. They are enablers of good and methodically sound academic practice as well as characteristics of an open academic culture of debate and investigation. The collection of relevant data, the use of proven methodologies and a basic openness to novel approaches and ideas are essential attributes of this academic culture. Formal powers of (outside) authority and a climate of narrow political correctness may threaten such openness.³⁹ The concept of an “open academic culture” is a key issue, even if university research is much embedded with political and economic

39. See the recent report of the University of Chicago committee on Freedom of Expression: <https://freexpression.uchicago.edu/>, accessed 23 August 2019.

considerations (see, for example, Horizon 2020⁴⁰) and it can be very useful if we consider that higher education should play a major role in developing sustainable and equal societies.

PUBLIC AUTHORITIES AND PUBLIC RESPONSIBILITY

In this context, “public responsibility” is understood as being exercised by public authorities. “Public authorities” refer to any body exercising authority over an education system or a part thereof, in accordance with a duly established mandate. In the words of the Council of Europe recommendation on the public responsibility for higher education and research:

“Public responsibility” is to be understood as the responsibility of public authorities. Public responsibility for higher education and research can be exercised in different ways and at different levels (national, regional, local or combinations of these) in different countries. A “public authority” is understood to be any body, organ, entity or other organisation, at any level, empowered to supervise, oversee or make decisions, representing or acting on behalf of the population of the territory concerned, irrespective of its legal status under public or private law. Public authorities may be competent at local, regional or national level, in accordance with the constitutional arrangements of the country concerned. (Council of Europe 2007: paragraph 4)

At first sight, the role of public authorities may seem paradoxical. Academic freedom and, even more, institutional autonomy are often thought of as being absent from interference by public authorities, yet neither academic freedom nor institutional autonomy can be a reality unless public authorities allow this. On the one hand, this implies that public authorities refrain from undertaking action that would endanger or impinge on academic freedom and institutional autonomy. History, including recent history, within and outside of what is today the EHEA, offers no shortage of examples.

On the other hand, it means that public authorities lay down the framework that makes academic freedom and institutional autonomy possible, and this role can be played by public authorities only. In the words of the 2007 Council of Europe recommendation, public authorities have

- ▶ exclusive responsibility for the framework within which higher education and research is conducted;
- ▶ leading responsibility for ensuring effective equal opportunities to higher education for all citizens, as well as ensuring that basic research remains a public good;
- ▶ substantial responsibility for financing higher education and research, the provision of higher education and research, as well as for stimulating and facilitating financing and provision by other sources within the framework developed by public authorities. (Council of Europe 2007: paragraph 7)

The framework for which public authorities have exclusive responsibility includes legislation, the degree system/qualifications framework, and ensuring there is provision for quality assurance, even though the public authorities would not necessarily conduct the quality assurance. In some countries, the quality assurance

40. <https://ec.europa.eu/programmes/horizon2020/en>, accessed 23 August 2019.

agency may legally be a private body operating under a mandate given by the competent public authority.

LEGISLATION

Academic freedom and institutional autonomy cannot exist unless they are provided for in the relevant legal framework. However, legal provision is not itself sufficient to ensure academic freedom and institutional autonomy; practice must follow suit. Some of the more difficult issues may in fact arise from a discrepancy between legal provision and actual practice.

Even if legislation may explicitly make provision for academic freedom and institutional autonomy, other laws may have the opposite effect. It is important to underline that academic freedom and institutional autonomy are not absolute, whether in legal or practical terms. Few would argue that higher education institutions, whether public or private, should be exempt from general legislation on and public regulation of matters such as safety in laboratories, financial accounting, fair employment and access, or protocols for the treatment of medical and dental patients.⁴¹ Therefore, discussion is likely to focus not on whether higher education institutions should be bound by general laws but on whether and how such laws could impinge unduly on academic freedom and institutional autonomy.

In some countries, academic freedom and/or institutional autonomy may be guaranteed through the constitution, but the provisions in both constitutions and in other legislation may be so general that their practical impact is limited (Karran and Beiter, this volume).

PUBLIC VS INSTITUTIONAL POLICIES

The ability of an institution to set its own policies is a key aspect of institutional autonomy. Nevertheless, public authorities also have an important policy-making role. Even if public policies may give rise to heated discussion, few would dispute the right of public authorities to set a vision, articulate their expectations of what the higher education system should deliver and develop policies for the education system accordingly. Disagreement would be on specific issues of public policy and on whether a given issue is one on which public authorities should reasonably set policy rather than the principle of public authorities developing a higher education policy.

For example, public authorities in Europe may develop policies for the overall number of students in higher education, or the number of students in specific academic fields, typically – but not exclusively – in study programmes qualifying for regulated professions. Access regulations, student support, programmes designed to support research in disciplines to which public authorities attach particular importance, and programmes to further excellence in research are other examples.

41. In the development of which the relevant parts of the academic community are likely to have been involved.

Institutions may develop their own policies within broader policies set by public authorities. Institutions may, for example, decide whether or not to aim for participation in programmes aimed at furthering excellence in research and, if they so decide, may identify specific academic areas or research groups within their institution for this purpose.

One potentially difficult area is quality. Institutions are responsible for developing and maintaining the quality of their education and research, whereas public authorities are responsible for maintaining the quality of the higher education system.⁴² Even if higher education systems are more than the sum of their institutions, the quality of individual institutions is clearly important to the quality of the system. What course of action should public authorities take if they are convinced that the quality of the system or of one or more institutions is insufficient? What course of action should public authorities take if an institution refuses to undergo quality assurance, as is the case for a few private institutions in Chile (Mönckeberg 2005), other than not to consider the institutions in question as part of their education system? Should public authorities refuse to allow such institutions to operate on their territory? Will they allow operation but monitor the information institutions provide to students and the general public to ensure this information makes it clear the institution has not been quality assured? Should authorities run information campaigns on the importance of quality assurance (and accreditation if this is a part of the system), or should public authorities let the institutions operate without interference but also without official recognition of their degrees?

ACTORS

While academic freedom and, even more so, institutional autonomy are often seen in terms of the relationship between institutions and public authorities, other actors are also important.

Some are actors with a mandate from public authorities, such as quality assurance agencies. It may be worth recalling that while the principle of quality assurance in higher education as a public responsibility is now accepted, and EHEA ministers have adopted both the original and later a revised version of the Standards and Guidelines for Quality Assurance in the European Higher Education Area (Bologna Process 2005, 2015b), this is a relatively recent development. As late as 1997, when the Council of Europe/UNESCO Lisbon Recognition Convention (Council of Europe and UNESCO 1997) was adopted, there was still disagreement on whether public quality assurance should be required or not. Article VIII.1 of the convention therefore distinguishes between “parties having established a system of formal assessment of higher education institutions and programmes” and parties that have not done so. At least for parties belonging to the EHEA, this distinction should no longer be operational.

It is also worth noting that while the standards and guidelines were adopted by ministers, they were developed by stakeholder organisations. This points to the

42. Through public policy as well as by ensuring there is provision for quality assurance. The latter is conducted by independent quality assurance agencies.

role of NGOs, some of which represent the academic community or parts thereof. This includes organisations representing the interests of a specific part of the academic community, such as trade unions and student organisations, exemplified by the role played by Education International and the European Students Union within the EHEA. Other NGOs also play a role. As an example, human rights organisations played a key role in shaping the policy of many higher education institutions in regard to contacts with South Africa under the apartheid regime.

The business sector is also an important actor, which is often a partner for higher education institutions, as exemplified by the role of BusinessEurope within the EHEA. Co-operation with business provides important funding as well as opportunities to develop applied research. At the same time, it raises issues of institutional governance, in particular in setting institutional priorities and in the ability and will of institutions and individual researchers or research teams to make their research results publicly available without delay. There is a long-running debate about the commercialisation of higher education and the extent to which this impinges on academic freedom and institutional autonomy. Many of the same issues arise in relation to foundations or other bodies providing funding for research or study programmes, typically medical research in specific fields such as cancer or cardiology – as well as, perhaps, the relative inability of other areas of medicine to attract similar funding.

GOVERNANCE

The traditional European model of institutional governance underlines autonomy in that the governing bodies have typically been made up exclusively or almost exclusively of members of the academic community: academic staff (tenured and non-tenured), students and technical and administrative staff. While the representation of groups has evolved over time and may vary somewhat between countries, there has been a tendency for tenured academic staff to hold a majority of seats on the governing bodies and for students to elect more representatives than technical and administrative staff. Rectors, deans and other academic leaders have generally been elected by and from within the academic community.

This governance model is now changing through the inclusion of external members of institutional governing bodies, either as a minority or as a majority on the board, as well as the hiring of institutional leaders from outside of the institution on fixed-term contracts and following a call for applications. This is, incidentally, a model that has a long history in the United States. Many factors have influenced the shift towards a new governance model, including the influence of and the controversy around theories of “new public management”, but two important considerations seem to have been given little explicit consideration. On the one hand, the emerging governance model redefines the competence required to govern a higher education institution, from an emphasis on competence in research and teaching to a broader but perhaps less clearly defined societal competence. On the other hand, the impact on academic freedom and institutional autonomy does not seem to have been a prominent consideration in the shift. We believe academic freedom and institutional autonomy are privileges of universities and members of the academic community with a clear goal setting that is not static but dynamic, evolving over time, requiring good maintenance and regular

self-monitoring. We also believe academic freedom and institutional autonomy are not only privileges but essential to both democratic societies and the quality of higher education and research.

POLICY INSTRUMENTS

A range of policy instruments are available to promote or impede academic freedom and institutional autonomy. This section will be limited to presenting some of the key instruments.

Legislation and regulation

The role of legislation and regulation has been described above and will therefore not be explored here; suffice to recall that while legislation is the exclusive privilege of public authorities and may be adopted at national or other levels according to the structure of the country, regulations may emanate from within higher education institutions as well as from public authorities. Internal regulations would fall within the domain of institutional autonomy; they may or may not further academic freedom.

Education systems and structures

Public authorities are responsible for education systems and structures. As an example, institutions will issue qualifications that are a part of a national qualifications framework or else operate outside of any national education system. An institution cannot, for example, decide to offer only integrated master's degrees (300 ECTS credits) if it operates in a system with a three-tier qualifications framework, as is the case for all EHEA members, nor can it offer first degrees of similar workloads. Within the qualification framework, institutions would, however, have considerable leeway to determine the exact composition of a given degree. Similarly, while institutions would be expected to undergo external quality assessment based on the ESG (Standards and Guidelines for Quality Assurance in the European Higher Education Area), they nevertheless have considerable scope in designing and providing study programmes.

Funding

The saying that whoever pays the fiddler calls the tune also applies to higher education, at least to an extent. There has been a tendency in Europe to see public funding as neutral, or at least as more neutral than funding from private sources. However, while public funding may be provided for broad purposes, it is often accompanied by stated policy expectations or performance indicators. Public funding may also be attached to specific projects or programmes. An equally important but less immediately evident point is that public funding may be withheld from certain areas or research with the same steering effects.

Private funding may also be for entire institutions or for specific projects and programmes and may be accompanied by more or less specific funding conditions or performance indicators. As specified in the Council of Europe recommendation

on the public responsibility for higher education and research (Council of Europe 2007: paragraph 17), funding should be provided within a framework established by public authorities and be balanced between general and targeted funding.

One important issue would seem to be whether institutions and programmes rely primarily on a single or limited source of funding, or whether funding is diversified. In general terms, diversified sources of funding may be assumed to provide less scope for any single funder to influence institutional policy and hence reduce institutional autonomy. Nevertheless, funding emanating from a single source with few strings attached may provide greater institutional autonomy than highly specified funding from a broad range of sources.

Projects

Academic freedom generally refers to the ability of individual members of academic communities to pursue their own academic interests and publish the results of their research. However, in many academic disciplines most research is carried out within research teams and/or through specifically funded projects. Many funding schemes are also linked to research projects. The individual academic able to set his or her research agenda without taking account of the priorities of institutions, research team or opportunities for funding of research projects would therefore be the exception rather than the rule. Such cases may nevertheless modify institutional priorities, and institutions may consider developing policies and guidelines encouraging individual or team academic cultures and be more incentive-oriented than having a prescriptive agenda.

Performance review

There is broad agreement on the need to ensure quality in teaching and research as well as on the need for accountability in the use of public and other funding. There is perhaps less agreement on how quality and accountability should be ensured, and parts of this debate have links to the debate on academic freedom and institutional autonomy. Publications records, student numbers per course and student assessments of teaching are examples of performance criteria that may influence academic staff members' ability to pursue teaching and research according to their own preferences or those of their academic discipline.

Such criteria are not necessarily unreasonable, and it would be difficult to make the case that the performance of academic staff should not be assessed. The issue is perhaps more what kind of assessment is reasonable and adequately combines concern for assessing individual and/or team performance with a concern for academic freedom, possibly also institutional autonomy. As two examples, publication patterns vary considerably between disciplines, and there may be other criteria than student numbers to decide whether a course should be given or not.

CONCLUSION

In this chapter, we have sought to explore different aspects of academic freedom and institutional autonomy to help develop a fuller understanding of the

issue and continue the reflection on possible actions and policies. The discussion of fundamental values is more prominent within the EHEA now than it was just four years ago. We would expect the June 2020 ministerial conference not only to keep the issue on the agenda but to develop a better appreciation of the challenges facing higher education and to identify possible priorities and actions within the EHEA.

Even if academic freedom and institutional autonomy play a more important role than previously, we still need to develop a more sophisticated understanding of the different aspects of these fundamental values of the EHEA. Politically prominent violations of academic freedom and institutional autonomy are often made visible through public debate, and one of the reasons is that such violations regrettably seem to increase in frequency.

The politically salient issues must be addressed, also at political level within the EHEA. The fact that this chapter has a different focus should in no way be taken to imply that flagrant violations of fundamental values should not be addressed; they will always weaken the democratic credentials of the governments and regimes that propagate or tolerate them.

Our purpose in this chapter has nevertheless been different. We have sought to explore at least some of the many less obvious issues related to academic freedom and institutional autonomy. These need to be addressed by public authorities, higher education institutions, students and staff and also by the public at large. Our hope is that this chapter will help develop a better understanding of the many issues and nuances involved as well as stimulate continued discussion of questions such as:

- ▶ How are academic freedom and institutional autonomy expressed and implemented in higher education policy and practice today?
- ▶ What are the greatest challenges to academic freedom and institutional autonomy?
- ▶ How can higher education institutions, as well as public authorities, best regularly reflect on their policies and practices both in terms of freedom and autonomy and in terms of responsibilities and services (to students who participate, to the society they serve, to the future of the global community of nations and to the sustainability of life on the planet)?
- ▶ What roles should the different stakeholders in the EHEA (such as public authorities; higher education institutions and their organisations; staff, students and their organisations; international institutions and organisations; other stakeholder organisations) play in furthering academic freedom and institutional autonomy?
- ▶ How can implementation of academic freedom and institutional autonomy best be assessed, and what should the implications of non-compliance be?
- ▶ How can ministers responsible for higher education best encourage and even ensure that academic freedom and institutional autonomy are living realities throughout the EHEA? How should these be connected with other fundamental values of the EHEA?

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Academic freedom and institutional autonomy: regional overviews

Democracy and the purposes of higher education in the United States

Ira Harkavy, Rita A. Hodges and Joann Weeks

ABSTRACT

The authors argue that to understand the concepts of academic freedom and institutional autonomy in the United States requires answering the question: academic freedom and institutional autonomy for what? To provide an effective answer, they discuss the core purposes of higher education in the US – education for democratic citizenship and the creation and advancement of knowledge for the common good, which involves developing and maintaining a democratic society. They then discuss the connection of academic freedom and institutional autonomy with academic and institutional responsibility and cite threats to academic freedom and institutional autonomy from the early 20th century to today from government, higher education itself and the private sector. The authors emphasise that given the current development of illiberal democracy and attacks on science and knowledge itself, universities have an increased and pressing responsibility to contribute to both the education of informed democratic citizens and the advancement of knowledge to improve the human condition. Highlighting the point made in the 2019 Global Forum Declaration that “higher education must demonstrate openness, transparency, responsiveness and accountability as well as the will and ability to work with and contribute to the communities in which colleges and universities reside”, they conclude that one of the best ways to practise academic freedom and institutional autonomy, as well as academic and institutional responsibility, is for universities to engage democratically with their local communities.

Keywords: democracy; citizenship; social responsibility; community involvement; academic freedom.

INTRODUCTION

Understanding the concepts of academic freedom and institutional autonomy in the United States requires answering the question: academic freedom and institutional autonomy for what? To provide an effective answer to that question, we believe, it is necessary to first examine the core purposes of higher education in the US. These purposes are education for democratic citizenship and the creation of knowledge to advance the human condition, which significantly involves developing and maintaining a democratic society.

Education for citizenship is, in our estimation, the most important purpose of the university. Specifically, higher education must educate not only able, but also ethical, empathetic, engaged citizens of a democratic society. In 1947, as a 19-year-old freshman at Morehouse College, Martin Luther King Jr. authored an article for the campus newspaper on the “purpose of education” that powerfully captures this idea. “We must remember”, he wrote, “that intelligence is not enough. Intelligence plus character – that is the goal of true education. The complete education gives one not only power of concentration, but worthy objectives upon which to concentrate” (King 1947: 10).

As noted, the other central purpose of universities is to develop the knowledge needed to change the United States and the world for the better. In 1899, in a paper delivered to the American Academy of Political and Social Science, Jane Addams, the activist, feminist founder of Hull House settlement in Chicago’s poverty-stricken immigrant 19th-ward neighbourhood, claimed that it was essential to “attempt to test the value of human knowledge by action” and “to apply knowledge to life” (Addams 1899/1985: 78).

Political Scientist Charles Anderson highlights the democratic purpose of US higher education in his description of the creation of the research university in the late 19th and early 20th centuries:

The classic understanding was that the life of philosophy, of self-conscious reflection, was the highest of human attainments, and reserved to the very few. Even in modern times, it has normally been assumed that the capacity for reflective intelligence was rather unevenly distributed. The work of the university was taken to be essentially aristocratic. It dealt with the higher questions. It prepared the qualified for the *learned* professions. The university’s role was rational speculation, and in the hierarchy of human interests this was thought to be quite remote from the concerns of everyday life.

With deliberate defiance, those who created the American university (particularly the public university, though the commitment soon spread throughout the system) simply stood this idea of reason on its head. Now it was assumed that the widespread exercise of self-conscious, critical reason was essential to democracy. The truly remarkable belief arose that this system of government would flourish best if citizens would generally adopt the habits of thought hitherto supposed appropriate mainly for scholars and scientist. We vastly expanded access to higher education. We presumed it a general good, like transport, or power, part of the infrastructure of the civilization. (Anderson 1993: 7-8)

Given the current development of “illiberal democracy”,⁴³ claims of “fake news” and “alternative facts”, and attacks on science and knowledge itself, universities have an increased and pressing responsibility to contribute to both the education of informed democratic citizens and the advancement of knowledge for the continuous betterment of the human condition.

43. The term “illiberal democracy” was coined in 1997 by Fareed Zakaria in an article in *Foreign Affairs*. See Zakaria (1997). For a relatively recent discussion of the relevance of the concept to the United States, see his provocative article, Zakaria (2016).

THE DEMOCRATIC PUBLIC PURPOSE OF HIGHER EDUCATION IN THE UNITED STATES

As alluded to above, the history of colleges and universities in the United States strongly supports our claim that the democratic mission is, and should be, the primary mission for US higher education. The founding purpose of every colonial college except for the University of Pennsylvania was largely to educate ministers and religiously orthodox men capable of creating good communities built on religious denominational principles. Specifically, Harvard (Congregationalist), William and Mary (Anglican), Yale (Congregationalist), Princeton (Presbyterian), Columbia (Anglican), Brown (Baptist), Rutgers (Dutch Reformed) and Dartmouth (Congregationalist) were all created with religiously based service as a central purpose. Benjamin Franklin, on the other hand, founded Penn as a secular institution to educate students in a variety of fields. In 1749, envisioning the institution that would become the University of Pennsylvania, he wrote of developing in students “an *Inclination* join’d with an *Ability* to serve Mankind, one’s Country, Friends and Family; which *Ability* ... should indeed be the great *Aim* and *End* of all Learning” (Franklin 1749: 150-51).

As Penn Provost Wendell Pritchett stated in his speech at the 2019 Global Forum:

Franklin founded Penn as a different kind of educational institution. It was completely new. Its mission was not simply to educate or create new knowledge. Those were part of the goal, of course – as they are at all universities. But Franklin was steadfast in his belief that the university had another, even higher calling: To form good citizens who would, in turn, go on to shape a new kind of political system: a Democratic Republic. To do this effectively, Franklin believed, required autonomy from government interference. Let me put it another way: That the advancement of knowledge for the improvement of humanity relied on producing students who would be creative, caring citizens of a democratic society. Education, yes ... but education in the service of democracy. (Pritchett 2019)

Franklin’s call to service is echoed in the founding documents of hundreds of private colleges established after the American Revolution, as well as in the speeches of many college presidents (Rudolph 1962). A similar blend of pragmatism and idealism found expression in the subsequent century in the Morrill Act of 1862, which established land-grant colleges and universities whose purpose was to advance the mechanical and agricultural sciences, expand access to higher education, and cultivate citizenship. Using language typically found in documents from these institutions, the trustees of the Ohio Agricultural and Mechanical College (now The Ohio State University) in 1873 stated that they intended not just to educate students as “farmers or mechanics, but as men, fitted by education and attainments for the greater usefulness and higher duties of citizenship” (Boyte and Kari 2000: 47). Later, the University of Wisconsin’s “Wisconsin Idea” would broaden the concept of civic engagement from preparing graduates for service to their communities to developing institutions intended to solve significant, practical problems that affected citizens across the state (McCarthy 1912; Maxwell 1956: 147-48; Stark 1995-1996).

Urban universities at the turn of the century had a similar emphasis. For example, in 1876, Daniel Coit Gilman in his inaugural address as the first president of Johns

Hopkins, America's first modern research university, expressed the hope that universities would "make for less misery among the poor, less ignorance in the schools, less bigotry in the temple, less suffering in the hospital, less fraud in business, less folly in politics" (Long 1992: 184). Belief in the democratic purposes of the research university echoed throughout higher education at the turn of the 20th century. In 1908, Harvard's president Charles Eliot wrote:

At bottom most of the American institutions of higher education are filled with the democratic spirit of serviceableness. Teachers and students alike are profoundly moved by the desire to serve the democratic community. This is a thoroughly democratic conception of their function. (Veysey 1970: 119)

Simply put, strengthening democracy at the expense of old social hierarchies served as the central mission for the development of the American research university, including both land-grant institutions and urban universities. Scholarship focused on producing a direct and positive change and "serving the democratic community" largely vanished, however, from universities after 1918. The First World War was the catalyst for a full-scale retreat from action-oriented, reformist social science. The brutality and horror of that conflict ended the buoyant optimism and faith in human progress and societal improvement that had marked much of the so-called Progressive Era in the United States of the late 19th and early 20th centuries (Ross 1991).

Since the end of the Cold War, there has been a substantive and public re-emergence of what might be termed engaged scholarship designed to contribute to democracy. The academic benefits of community engagement have been illustrated in practice – and the intellectual case for engagement effectively made by leading scholars and educators, including Ernest Boyer (1990) and Derek Bok (1990), as well as current university presidents such as Nancy Cantor of Rutgers University-Newark (2018), Eduardo Padrón of Miami Dade College⁴⁴ (2013) and Penn's President Amy Gutmann (1999, 2004). That case, simply stated, is that higher educational institutions would better fulfil their core academic functions, including advancing knowledge, teaching and learning, if they focused on improving conditions in their societies, including their local communities. More broadly, a burgeoning higher education democratic civic and community engagement movement has developed across the United States to better educate students for democratic citizenship and to improve schooling and the quality of life. Service-learning, engaged scholarship, community-based participatory research, volunteer projects and community economic development initiatives are some of the means that have been used to create mutually beneficial partnerships designed to make a positive difference in the community and on the campus.⁴⁵

44. Eduardo Padrón retired in August 2019.

45. Community-engaged work is happening at colleges and universities in small town and rural areas as well as urban centres in the United States. Campus Compact has a national membership of over 1 000 colleges and universities that are "committed to the public purpose of higher education. We build democracy through civic education and community development." See <https://compact.org/who-we-are/>, accessed 19 August 2019. For a more detailed overview of the civic and community engagement movement and its impact across higher education, see Chapter 5 in Benson et al. (2017).

ACADEMIC FREEDOM, INSTITUTIONAL AUTONOMY AND ACADEMIC AND INSTITUTIONAL RESPONSIBILITY

Significant levels of institutional autonomy and academic freedom are necessary for intellectual creativity, free inquiry and progress. Academic freedom and institutional autonomy, moreover, are intertwined with *academic and institutional responsibility*. These ideas were central to the American Association of University Professors (AAUP), an organisation formed in 1915 by leading Progressive Era academics John Dewey and Arthur O. Lovejoy, to ensure academic freedom for faculty members. The creation of the AAUP in 1915 was prompted by a number of instances of potential violations of academic freedom that the disciplinary societies were not equipped to address. Among AAUP's earliest cases was the University of Pennsylvania Trustees' summary firing of Scott Nearing, a professor in Penn's Wharton School, for his vehement criticism of child labour (AAUP 2015). In the wake of threats to democracy in Europe in the late 1920s and 1930s and the Depression in the US, as well as high-profile cases of attacks on academic freedom, the AAUP wrote its 1940 Statement of Principles on Academic Freedom and Tenure to define faculty rights and responsibilities. This statement remains a guiding set of principles for academic freedom in the United States:

Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research. ... It carries with it duties correlative with rights. (AAUP 1970:14)

A year earlier, in 1939, John Dewey wrote the article "Creative Democracy – The Task Before Us", in response to the growing threat of Nazism. Dewey described democracy as "a way of life controlled by a working faith in the possibilities of human nature". He went on to write, "Intolerance, abuse, calling of names because of differences of opinion about religion or politics or business, as well as because of differences of race, color, wealth or degree of culture are treason to the democratic way of life" (Dewey 1939: 229). For Dewey, core universal values are essential for a functioning democracy and for advancing the common good. Universities, in our view, must stand for these universal and democratic values to realise their core purposes of education for citizenship and creating knowledge to improve the human condition.

In her speech at the AAUP 2019 annual conference, Joan W. Scott, former chair of the AAUP's Committee on Academic Freedom and Tenure and professor emerita at the Institute for Advanced Study in Princeton, New Jersey, reiterated that academic freedom and institutional autonomy were needed to advance "the common good":

Those of us looking to articulate a notion of the common good for the twenty-first century – and of course that notion will not be exactly the same as it was for the Progressives – need academic freedom to protect the space of our critical inquiry. In turn, the survival of the concept and practice of academic freedom depends on our ability to come up with that articulation. The common good will not survive – and for that matter neither will individuals survive – without medical knowledge, knowledge of climate change, knowledge of history, knowledge of how structures of discrimination work at the economic, social, political, and psychic levels to perpetuate

inequalities of race, gender, sex, and religion. It is academic freedom that protects the production and dissemination of that knowledge. It is that knowledge that nourishes and advances the common good. The future of the common good and of academic freedom are bound up together; the one cannot survive without the other. (Scott 2019)

We should note that threats to academic freedom and institutional autonomy come from many sources, including government, higher education itself and the private sector. For example, institutional autonomy also includes the freedom to pursue knowledge without undue influence from outside funding sources. With the rise of the so-called entrepreneurial university,⁴⁶ however, profit for the sake of profit too often appears to be the primary purpose of institutions of higher education. Needless to say, this has negative impacts on both research and education for the public good. For example, in the United States, the rush to cash in on breakthrough treatments has led to strong criticism of both academic medical centres and individual researchers for conflicts of interest that lead to both conscious and unconscious distortions in research findings and in institutional mission. A case in point is the denunciation of the administration and certain highly influential researchers at Memorial Sloan Kettering (a leading academic medical centre in New York City) by many of the institution's faculty members. To quote from a widely read article in *The New York Times*:

Hundreds of doctors packed an auditorium at Memorial Sloan Kettering Cancer Center on Oct. 1, deeply angered by revelations that the hospital's top medical officer and other leaders had cultivated lucrative relationships with for-profit companies.

One by one, they stood up to challenge the stewardship of their beloved institution, often to emotional applause. Some speakers accused their leaders of letting the quest to make more money undermine the hospital's mission...

The concern of ethicists and health experts is that a bias in favor of industry can unduly influence scientific research and medical treatments and remove a valuable check on soaring drug prices. (Thomas and Ornstein 2018)

The commercialisation of universities also results in education for profit, not virtue; students as consumers, not producers of knowledge; academics as individual superstars, not members of a community of scholars. All of these developments contribute to an overemphasis on institutional competition for wealth and status and have a devastating impact on the values and ambitions of students (Bok 2003). When institutions openly pursue commercialisation, their behaviour legitimises and reinforces the pursuit of economic self-interest by students and amplifies the widespread sense that they are in college exclusively to gain career-related skills and credentials. Student idealism and civic engagement are strongly diminished when students see their universities abandon academic values and scholarly pursuits to function as competitive, profit-making corporations. Commercialism and the development of the entrepreneurial university, simply put, foster an

46. Although definitions vary, the concept of the entrepreneurial university grew out of the commodification and commercialisation that higher education frequently encourages, and the increased impact of the marketplace and the profit-making motive on university operations and goals. See Slaughter and Leslie (1997) and Clark (1998). For a more recent discussion that highlights the lack of definitional agreement, see OECD (2012).

environment in which higher education is seen as – and increasingly becomes – a private benefit, not a public good.

GLOBAL FORUM ON ACADEMIC FREEDOM, INSTITUTIONAL AUTONOMY, AND THE FUTURE OF DEMOCRACY DECLARATION

The interconnection of academic freedom and institutional autonomy with academic and institutional responsibility is captured in the Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy Declaration (2019) adopted by the 2019 Global Forum participants. For example, the declaration states in paragraph 2:

Higher education can only fulfil its mission if faculty, staff and students enjoy academic freedom and institutions are autonomous; principles laid out in the Magna Charta Universitatum as well as the UNESCO Recommendation on the Status of Higher Education Teaching Personnel. Academic freedom and institutional autonomy are essential to furthering the quality of learning, teaching, and research, including artistic creative practice – quality understood as observing and developing the standards of academic disciplines and also quality as the contribution of higher education to democracy, human rights, and the rule of law. Higher education must demonstrate openness, transparency, responsiveness and accountability as well as the will and ability to work with and contribute to the communities in which colleges and universities reside.

Academic freedom and institutional autonomy, therefore, are mediated rights that come with responsibilities. As stated above, working with and contributing to their local communities is essential if colleges and universities are to function as responsible institutions. In our judgment, it is also an institutional responsibility for universities to work in *democratic partnership* with their community, demonstrating “openness, transparency, responsiveness and accountability”. Reflecting on the work we have done at the Penn’s Netter Center for Community Partnerships with the University of Pennsylvania’s local community of West Philadelphia over the past 30 years, we believe there are certain core democratic principles that should be incorporated into partnerships.⁴⁷

DEMOCRACY AND OPENNESS, TRANSPARENCY, RESPONSIVENESS AND ACCOUNTABILITY

The principles of democratic purpose, process and product, when put into practice, can powerfully contribute to successful university–community partnerships and university responsiveness. We summarised these principles, identified by

47. To be more specific, all three of the authors have senior administrative positions at the Netter Center, which was founded in 1992 to serve as the university’s primary vehicle for advancing civic and community engagement at Penn. Ira Harkavy serves as founding director, Joann Weeks is associate director and Rita Hodges is assistant director. The Netter Center develops and helps implement democratic, mutually transformative, place-based partnerships between Penn and West Philadelphia that advance research, teaching, learning, practice and service and improve the quality of life on campus and in the community. See www.nettercenter.upenn.edu/about-center/our-mission, accessed 6 August 2019.

higher education leaders (including Harkavy, a co-author of this chapter) at a 2004 conference :

- ▶ Purpose: An abiding democratic and civic purpose is the rightly placed goal if higher education is to truly contribute to the public good.
- ▶ Process: The higher education institution and the community, as well as members of both communities, should treat each other as ends in themselves rather than as means to an end. The relationship itself and welfare of the various partners should be the preeminent value, not developing a specified program or completing a research project. These are the types of collaborations that tend to lead to a relationship of genuine respect and trust, and most benefit the partners and society.
- ▶ Product: A successful partnership also strives to make a positive difference for all partners–this is the democratic product. Contributing to the well-being of people in the community (both now and in the future) through structural community improvement should be a central goal of a truly democratic partnership for the public good. Research, teaching, learning, and service should also be strengthened as a result of a successful partnership. Indeed, working with the community to improve the quality of life in the community may be one of the best ways to improve the quality of life and learning within a higher education institution. (Harkavy and Hartley 2009).

For the purpose of this chapter, we highlight the issue of democratic process. Our argument, simply put, is that an inclusive epistemology that involves the knowledge possessed “on the ground” by community members is required for the effective solution of locally manifested universal problems such as poverty, health inequities, environmental sustainability and inadequate, unequal education. This epistemology expands the definition of expertise and knowing to include other voices – those not necessarily steeped in professional credentials or academic knowledge, but in lived experience of the conditions and actualities under examination (Ahlstrom-Vij, Kappel and Pedersen 2013; Giampietro 2006). What is called for is a movement away from a narrow definition of “expert” to a “community of experts”, a broadening of context to include indigenous place-based knowledge (Cantor and Englot 2013: 121). Community members with that knowledge must also be actively involved, from the definition of the problem through development and implementation of solutions (Whyte, Greenwood and Lazes 1989).

In describing the set of assumptions involved in participatory action research, a form of research particularly appropriate for place-based academic-community partnerships, William Foote Whyte argues that “the standard model does not represent the one and only way to advance scientific knowledge”. Instead, he encourages:

a research strategy that maximizes the possibility of encountering creative surprises [which] are most likely to occur if we get out of our academic morass and seek to work with practitioners whose knowledge and experience is quite different from our own. (Whyte 1989: 383-384)

Furthermore, there is a significant difference between researching as a detached observer versus as an active participant, whose work genuinely matters to the local population. As participants, researchers are much more likely to develop trusting relationships with community members, which is a requisite for having access to insider knowledge (Webb et al. 2000).

DEMOCRACY AND CONTRIBUTING TO THE COMMUNITIES IN WHICH UNIVERSITIES RESIDE

One of the best ways to practise academic freedom and institutional autonomy as well as academic and institutional responsibility is to engage locally. Local participatory democracy is, in our judgment, necessary for the development of a democratic culture that goes beyond the crucial act of voting and extends to all areas of life. In 1929 in *The Public and Its Problems*, Dewey famously wrote, “Democracy must begin at home, and its home is the neighborly community” (Dewey 1927/1954: 213). Dewey, however, did not appreciate the powerful role that higher education could and should play in building “the neighborly community”, as well as the benefits to universities themselves that would result from local engagement (Benson, Harkavy and Puckett 2007). In 1999, 70 years after Dewey coined his far-reaching proposition, Shirley Strum Kenney, president of the State University of New York at Stony Brook, succinctly captured the societal and institutional benefits of community engagement: “To be a great university we must be a great local university” (Ellin 1999: B10).

The benefits of a local community focus for colleges and universities are manifold. Ongoing, continuous interaction is facilitated through work in an easily accessible location. Relationships of trust, so essential for effective partnerships and effective learning, are also built through day-to-day work on problems and issues of mutual concern. In addition, the local community provides a convenient setting in which service-learning courses, community-based research courses and related courses in different disciplines can work together on a complex problem to produce substantive results. Sustained local partnerships of this kind foster the civic development of university students while advancing their academic learning and knowledge. The local community is also a democratic real-world learning site in which community members, academics and students can pragmatically determine whether the work is making a real difference and whether both the neighbourhood and the institution are better as a result of common efforts (Benson et al. 2017: 147-148).

As colleges and universities work collaboratively with their neighbours on locally manifested universal problems, we believe they will be better able to advance knowledge, learning and democracy (Bergan, Harkavy and Munck 2019). In so doing, they will also satisfy the critical performance test proposed in 1994 by the president of the University at Buffalo, State University of New York, William R. Greiner – namely, that “the great universities of the twenty-first century will be judged by their ability to help solve our most urgent social problems” (Greiner 1994: 12).

CONCLUSION

We conclude this chapter by briefly summarising our central points. Academic freedom and institutional autonomy are inextricably linked to the purposes of higher education in the United States: education for democratic citizenship and the advancement of knowledge for the common good, which involves developing and maintaining a good democratic society. Higher education should, indeed must, stand for core universal values, including tolerance, diversity and inclusivity,

open inquiry, democracy, human rights and the rule of law. Academic freedom and institutional autonomy as well as academic and institutional responsibility are necessary for universities to realise these values in practice. We have highlighted this point made in the Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy Declaration (2019): “Higher education must demonstrate openness, transparency, responsiveness and accountability as well as the will and ability to work with and contribute to the communities in which colleges and universities reside”. In our view, genuine participatory partnerships with the local community is a highly effective strategy for universities to contribute to the common good and fulfil the unrealised democratic promise of US higher education.⁴⁸

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48. The importance of local engagement is recognised outside the US. The Council of Europe, in collaboration with the US Anchors Institutions Task Force (AITF), held conferences in Rome (2017), Dublin (2018) and Strasbourg (2019) to discuss creating a European entity inspired by AITF. At the Strasbourg meeting participants from across Europe agreed to form a small task force that would include a representative from AITF to consider organising a network that would focus on exchanging experiences and advocacy. The AITF, formed in 2009, is a growing network of over 900 leaders promoting the engagement of anchor institutions – including colleges, universities, hospitals, community foundations, libraries, arts institutions and other anchors – in community and economic development. The AITF is designed to develop and disseminate knowledge and function as an advocacy and movement building organisation to create and advance democratic, mutually beneficial anchor institution–community partnerships. See www.margainc.com/aitf, accessed 6 August 2019.

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Academic and scholarly freedom: towards a “disputing” university with critically engaged students

Jim Nyland and David Davies

INTRODUCTION

The theme of this article concerns the need to learn and teach the question of academic and scholarly freedom as part of what we term the critical curriculum for universities. This has implications for learning and teaching precisely in relation to social and civic engagement and goes to the heart of what the university is really for. Scholarly freedom refers in this chapter to the right to research, publish and teach within the parameters of the academic disciplines and fields and to the role of the appropriate peer groups who adjudicate academic quality. Academic freedom refers here to the more generic concept of the right of individuals to hold and pursue views and opinions within the university without undue influence from external agencies or authorities. Universities have in the “western tradition” sought to minimise the influence of the state for example on the social and political views of teachers and researchers. There is obviously a type of what Steven Seidman (1998, p. 318) called “communicative contact” between these two notions and what appear as allied concerns over the institutional autonomy of universities, though the latter is perhaps more concerned with governance and funding than academic matters.

AN AUSTRALIAN DEBATE

The Australian democratic culture engrained across its institutions can be summed up in two of its most famous “motifs” – that it is the land of “have a go” and the land of the “fair go”. These twin concepts underpin Australia’s commitment to engage with democracy through its universities, which now rank as the nation’s third largest export industry. Australian universities are the largest in the world on a per capita basis, comprising 1.4 million students across 42 universities, only two of which are private.

The modern Australian university is expected to be many different and contradictory things. It is expected to be an innovator in learning and knowledge; collegial in its dealings with its staff and its partners yet competitive in an increasingly marketised and monetised world; caring in its concern for people yet entrepreneurial in its business dealings. It is expected to be both a public institution and a private

organisation and it is almost always both a local and global institution. This wide array of university roles and identities does not imply that it must be in any sense compromised in terms of its adherence to academic and scholarly freedom.

Yet, when we explore recent debates and developments relevant to understanding and protecting academic freedom and institutional autonomy in Australian universities, we find ourselves somewhat perplexed. In recent times, the Australian higher education sector has been immersed in debates around academic freedom and institutional autonomy. A touchpoint for these debates has been the proposed philanthropic Ramsay Centres for Western Civilisation, offered to a number of Australian universities. However, the blow-back from these offers has been relentless with academic staff and students protesting that their academic freedom was being compromised through a forced, single view of history being imposed on their university. In response to such protests, some universities have since rejected the Ramsay Centre's lucrative offer and those that have decided to proceed with it continue to experience significant angst among their academic community.

The Australian Federal Government appointed Former Chief Justice of the High Court Robert French to conduct a review into university freedom of speech (French 2019).

The resulting French report can be summarised in the following key points:

1. Academic freedom is potentially restricted by commercialisation of research, anti-terrorism and sedition laws.
2. The current debate is a global one affecting universities worldwide.
3. Freedom of speech on campus and academic freedom apply to academic and professional staff as well as students.

French argued that Australian higher education needs to maintain an open and robust culture even if expressed views are controversial or harmful. There are key themes and issues that need the academy to be a genuine forum for debate and dispute and to engage with the wider world. Australian universities are therefore working hard to incorporate an active dimension to their missions and strategies in terms of their commitment to academic freedom and institutional autonomy, freedom of inquiry, free expression, and open and critical debate in public discourse to ensure its "have a go" and "fair go" psyche is alive and well on its university campuses.

THE CIVIC ROLE OF THE UNIVERSITY

The civic role of the modern university is a theme which feeds into a focus on engagement through learning and teaching, reshaping social knowledge to fit the emerging concerns of the contemporary world. It is in the spirit of public and democratic education that universities are changing their communities and this has led to a better role for universities and better outcomes for students of all kinds.

The role of the modern civic university in Australia offers a route that says we should examine what we do and think in order to produce insight and understanding that can change and transform our communities through the creation of knowledge

for a social purpose. The focus is on developing and strengthening partnerships for economic and civic benefit; it is the culture of learning, the social significance of the institution (the university as a social network) and the need to personalise our learning in an age of mass education that shows a capacity for de-humanising and de-personalising our learning experiences.

Reimagining the civic role of the university requires us to take a critical stance on the nature of university life through the specific prism of the curriculum, i.e. the organisation of learning and teaching. It suggests that the need for reform of engagement across a broad spectrum of university activity and thinking also requires a co-existential and consecutive reform of the curriculum, and that the transformations of learning and its institutions that we have seen over perhaps four decades have not been matched by commensurate changes in what is learned and how it is taught. For our present existence and the future of our children there can surely be no denying the significance of climate change and global warming; the life-threatening pollution of the air and the oceans upon which ultimately all life depends; the obscenity of poverty and early death of millions excluded from progress and affluence; the continuing impact of war and armaments production; and the impending conflagrations around population movement and migration.

These are the contexts and situations for which the current university curriculum is inadequate. These issues are not addressed centrally as a leitmotif, a guiding thread of concern and critique for all learners since all people are impacted by them. Which is not to suggest that all academic disciplines and boundaries must be abandoned, and all existing curricula be instantly transformed into issues curricula. The realities of the world dictate that transformations may have to be gradual, and as is frequently stated, we want our brain surgeons to know a great deal about brain surgery and our air pilots to know precisely how to fly the aeroplane we are using to get to the next university conference across the continent. But it is not naive to ask that we renew the purposes of the university and just what sort of knowledge we want it to develop. The radical growth and transformation of mass higher education itself and the explosive power of the internet have both occurred within the last 20 years without a corresponding change in our approach to learning.

A DISPUTING UNIVERSITY?

What is more important for scientific debate, the deepest and critical knowledge or the acceptable answer? The answer is clear, is it not? Or perhaps not. We can see much discussion about the meaning of academic freedom and the changing climate on freedom of opinion within and beyond the universities.

Whether there has been a definitive shift over time is difficult to argue; however, for some two decades or more we can observe a critical and scholarly dialogue about the meaning of academic freedom and the changing climate on the “crisis” of knowledge and freedom of opinion within and beyond the universities (Barnett and Griffen 1997). There can be little doubt that the emergence of new social and political movements reflecting some substantial changes in both the reality and perceptions of social life has occurred. The new movements have created new social knowledges which are contentious and have disturbed, for example,

established racial, ethnic, sexual and gender hierarchies (Seidman 1998, p. 253). Some of the identity-based movements have claimed to be representing a distinctive social reality which is at odds with the predominant paradigms of knowledge and contest important aspects of social science disciplines. In this sense they can be said to have questioned both scholarly and academic freedoms thought to be embodied in institutionally autonomous universities and in the notion of academic freedom for scholarly pursuits.

For example, some people who inhabit what may have been experienced as marginalised identities may indeed feel threatened by individuals having their status and feelings discussed in open and contentious ways or in forums that include actual or potentially hostile adversaries. The targets have been on the left as much as on the right and the informal pressures of the best arguments make the seemingly more radical positions possible. Nick Cohen put the point in a historical context which still finds its resonance today: “The campaigners of the Sixties fought racism, sexism and homophobia, but they also fostered an aggressive individualism that dissolved the bonds of mutual support and balanced it with an aggressive identity politics that threatened basic freedoms” (Cohen 2007).

No-platforming is quite common in Australian universities, similar to the United Kingdom and the US. No-platforming refers to the banning or preventing of (usually) notable academic or political figures from speaking in universities following an invitation to do so, because some students (usually) and sometimes academic staff may feel threatened or have their views, perspectives or identities challenged by the views or the previously published work of the speaker. A notable case in the United Kingdom was the withdrawal of an invitation to speak at a renowned university from Professor Germaine Greer, a well-regarded and indeed famous Australian academic, because her views on transgender issues were not in accord with those of some of the students at the university. Radical left students shape the discourse in many places where controversial right-wing speakers are banned so that their viewpoints are not damagingly engaged with by those with whom they disagree. Some critics refer to this as a student-led “debate police” whose actions can impact potentially uncomfortable public discourse (Hartung 2019). The point here is that the universities have neither developed a curriculum nor a philosophy which would empower students to debate and discuss the most contentious issues and problems challenging their future lives and in fact they share this with schools and schooling. To quote Tomlinson (2019):

While many young people were aware that they would live their lives in a globalised world, with rapid communication and population movement, the failure to think seriously about a curriculum for a globalised future – which would need an understanding of the past – left schools either trying to ignore tensions or unable to cope with conflicts. (Tomlinson 2019: 160)

Those who preach with moral fervour and fury do not want a dialogue and those who simply shout back equally want only competing monologues. The person opposite is no longer a discussion partner but at best a listener and often a projection space; a “screen” onto which thoughts are “projected”. No serious response is required. Speaking and speechlessness in this way often hang paradoxically together. There is too much certainty and too little doubt. Our capacity to control

the way in which our attention is managed is itself under severe challenge from the digital devices through which so much communication is organised and managed for us, on our behalf and without our full acknowledgement or agreement (Crawford 2015). Even where our attention is freely given and we are consciously paying attention, “attentionality” is not contested through reasoned argument and evidence but through things being attested, stated, confirmed and re-enforced through declaration (often by reference to revealed “sacred” texts which cannot be disputed by those who believe in them). “Non-believers” are apostasised, declared to be committing blasphemy, and dialogue becomes accusatory. The language of apostasy here reflects the often “rootedness” of argument in the “revealed” texts of religious discourse. Even if the convictions concerned may not be religious, they are treated as if they were.

To use the English language creatively by adapting a metaphor from an allied context, what comes to mind here is what in the United States is known as “helicopter” and “snowplough” parenting. This involves anxious and perhaps obsessive parents who keep a close watch on all the doings of their children and remove any obstacles to their success in whatever enterprise they are involved. Educational institutions can be persuaded to act in a similar way and must surely be warned against snowplough education.

Paul Collier (2018, p. 106) has recently made an allied argument concerning the significance of what he refers to as “hothousing” in the American experience of family life and later success in professional spheres and the uptake of opportunity. The impact of parental interventions and support for their children can have decisive effects on educational outcomes. There is a homology here between the issues of personal development and the issues of democratic deliberation. The enhancement of both requires conscious and ethical intervention to safeguard intended results and outcomes. The unintended consequences, however, may deliver results contrary to those expected. Collier notes the way in which the new hothousing has produced children of the educated class but who are in the bottom national group of cognitive ability yet who have a higher chance of getting to university than those children from less-educated families who are in the top ability group. Democratic deliberation and debate in universities, homologously, requires a conscious and deliberate intervention to spell out the conditions under which academic freedom for universities can be upheld. To assume even implicitly that a neutral stance will achieve this is to be subject to the fallacy of expectations over that of unintended consequences. Universities have a “duty” not to remove obstacles and challenges to student experience and perceptions, but rather to equip them with the skills and values to argue and debate their own case. Only in this way can the university’s moral mission – measured in terms of commitment to democracy and militancy for tolerance – be delivered.

Genuine education is not to be had without intellectual challenges and courage and only those who literally engage and rub up against opponents can prove their point. It is a vital function of a university to facilitate what the Germans call *Andersdenken* (literally “thinking differently”), which is what we might call dissident or alternative thinking. Thinking and disputing are siblings.

A crucial matter, that exemplifies this argument especially for students it seems, is that of identity formation and defence. Universities have attempted to be neutral in this matter, wishing perhaps to promote an emollient view that a neutral stance might defuse potentially ignitable issues around the often fraught sexual, cultural, religious and social identities and the sometimes contrasting values espoused by those inhabiting a specific identity. However, Kwame Anthony Appiah has argued persuasively that “there is no dispensing with identities but we need to understand them better if we can hope to reconfigure them, and free ourselves from mistakes about them” (Appiah 2019, p. xiv).

However, it is clearly tempting to state that “on the hand there is ...” and “on the other hand we can see the justice in ...”. This is problematically acute when students state that their identity is literally threatened or injured by certain academic or quasi-academic positions or theories. However, there can be no true study and clarification without open controversy in many matters. On the one hand, universities must protect their academics and guests from attacks that are unwarranted, while on the other hand they must protect the space and places where hard questions can be asked.

This can only be done when universities take constructive controversy to be part of their declared role and function; it must enter self-consciousness and self-understanding. This means controversy and argument play a bigger role than has been the case recently. They must become “controversy universities” by which means the teachers must teach more intensive discussion and exchange to their students. Learners need therefore lecturers who will irritate and disturb them, and they need to encounter theories which they may have declined or refused to explore and with which they may disagree. At least some teachers may need to be from different backgrounds and have other opinions than those of the majority. Decisions in a democracy should be achieved through what Simon Jenkins (2019) recently called “relentless debate”, not through the power of money, or lobbying, or the chants of crowds and certainly not through the guns and brutalities of war. Yet people do not come to support the democratic institutions of a democracy by chance or simply through habit. The politics of the masses in the street can have a massive potency, but this may be not always be a positive force for progress. The recent rise of authoritarian right-wing populism in Europe is an example (Eatwell and Goodwin 2018). The key is to debate and argue, which can counter the politics of fear and hate with arguments based on reason and rational evidence and science. Even the politics of emotion must be subject to the voice and imprimatur of reason. No-platforming can never win a debate and it invites reaction and a retreat into confirmation bias. An engaged university must be engaged in debate and instil in its students an incitement to reason.

A contesting and disputatious university needs to have expectations of its teachers. Of course, they will be bright and will have proven their academic worth and achieved their proper place in a reward system that gives professional security and social status, a good wage and a sense of personal achievement. The expectation, however, should be courage to speak out. Those who retain their silence and do not speak out against the banning of free speech, for example, because they feel themselves under threat, need to have more courage. Those who challenge their students need to have more care and awareness of the results of such challenges.

Those who are totally committed to their research and work and thereby seek to escape the disputes need more science and humanities to apply their knowledge to a disputatious world of which they are inescapably a vital part.

A disputatious university cannot shrink itself within itself. An inner migration will simply not suffice. Next to teaching and research the third mission must be to be effective in the world. The university should be a forum for discussion and debate about the things that really matter. This might be focused on the “wicked problems”, including poverty, inequality, war and disasters, migration and ethnicity, climate change, global warming and the destruction of the homeland planet. We are referring to a newer concept here of the “homeland planet” to denote the specificity and uniqueness of a threatened ecological system of truly global proportions and significance. The planet is THE single and only homeland for us all. This surely indicates to us all that there is a need to change the way we think and communicate the absolute core messages of global survival in an era of unmitigated threats. It might mean a critical examination of the nature and effectiveness of our human future in an age of surveillance capitalism (Zuboff 2019) in the information age (Castells 2000). Discourse without effects on the real world and without openness is only a symposium, whereas we surely need engagement.

The very best students write without fear and want to engage in the very things that matter to them and can in a sense matter only and specifically to them. This argument can perhaps be supported by reference to the way in which digital life and phenomena are rewiring and rescripting our external and inner lives. The pre-digital lived experience involving learning, communication and the consuming of goods and services has evolved into a world of ceaseless communication, instant access to information and global connectedness to potentially every living person on the planet (Scott 2015; Zuboff 2019). And as far as identity is concerned, Appiah has shown how we must approach the subject of identity anew with values that allow us to rethink questions of creed, colour, class and culture for a future which seriously questions and indeed critiques our past understanding of these matters (Appiah 2018).

It is their future in a way it cannot be ours, who will not live to inherit the issues we have sown. But those of us here now can sow the seeds of critical thinking and discourse. A dialogue of analysis and critical insight rooted in critical and humanistic science is possible. Perhaps the discursive and disputatious university can bring forward its graduates without fear of controversy through education with dispute, focused on knowledge for change and a better social result. This would surely be a victory for a better society and a better future.

THE MEANING OF CRITICAL THINKING AND THE CURRICULUM OF UNIVERSITIES

John Berger, the great writer and broadcaster on art and society, reminded us that community is one of the longings of our century (Berger 2016). The need for belonging is a common human characteristic. It retains a powerful charge and seems to offer a framework of meaning for modern life. But it is culture which connects us to the events “out there”. There is no community outside of and beyond cultural forms

and practices that make us what and who we are. Yes, there is an essential sense of self for most people and there are collective experiences and identities and some people feel alienated from the collective norms, values, practices and behaviour that we can observe and analyse around us. But it is in the relation of things that this understanding emerges, and that the culture through the various “languages” it employs becomes the means of relating one thing to another. Without culture and cultural mediation there can be no valid knowledge that can equip us with the power to change our thinking and consciousness and transform (if we so choose) our social and material lives and, who knows, our human “spiritual” lives as well.

A culture of academic freedom lies at the heart of engendering such transformation. It forces us to engage with the “big issues”, sometimes referred to as “wicked issues” (Firth 2017) – and voice our criticism towards them.

Poverty is still with us – globally and locally

The “real” world still consists of millions who are without an adequate income to rear their families, a world without dignity or education, without clean water or adequate food and medicine and whose share of world wealth is actually diminishing. There is also a world where climate change and pollution are far from improving and where the threat of human extinction is real. The arguments for devising a new curriculum that addresses these issues seems to be self-evident.

The marginalisation of young people

The rapid pace of social and economic change, the apparent quickening of mass migration across large parts of the globe, deindustrialisation and the “hollowing out” of many traditional economies and communities have meant the growth of more challenges to the neoliberal consensus in many societies. For many young people this has meant their future is at risk with youth unemployment and marginalisation the fate of many across the world.

The growth of digital technologies and how we understand what is happening

In a society where knowledge has exploded, learning is being transformed by the artefacts and the apps of the information age. Communications can be instantaneous, and reality becomes “virtual”. Local communities can become marginalised and impoverished by the almost instant switching of production to cheaper locations, perhaps halfway across the globe. We should not underestimate the sheer power and reach of the new technologies. However, it is one thing to describe the exponential growth of digital machines to almost every living human on the planet and the communication networks that sustain them, and another to overcome the negative effects and disbenefits that accompany them.

Knowledge and learning relevant to life and work

The sheer power and availability of computerised automation has now shifted the nature of work and leisure so fundamentally that it presents us with an existential challenge. Modern work, for many, presents a lack of engagement in the task and even leisure and free time may be occupied by “lazy” and sometimes aimless pursuits. Automation may not have simply removed many people from the prospects of meaningful and rewarding work, but it has the potential to undermine the ethos of work as a self-fulfilling and enhancing engagement with the world of things and people. In this sense, it may make us “lazy” and insensitive to the real meaning of work, which may not be about earning an income but rather be more about acting in the world around us in life-enhancing ways.

The task facing universities is developing knowledge and skills and a curriculum that can cope with the capacities and threats presented by the machines we depend on and that can help us challenge the loss and separation of ourselves from our communities.

Relevance of community and identity

Ways of learning relevant to a community stress the importance of common identity, shared values and a sense of shared experience aimed at changing and conserving valued traditions. The community, in a sense, may become the curriculum and a belief can emerge in a large reservoir of talent and ability within individuals and their communal experience that can be tapped and released. The university can sponsor learning which revolves around this growing and developing sense of awareness.

An engaged curriculum for critical thinking

We have considered some of the new contexts for a more vital and engaged critical role for universities. The aspect we want to consider now is that of the need for curricular renewal and the idea of critical thinking skills as a feature of all university learning and teaching programmes in the context of academic freedom. We have already alluded to the fact that the really big issues facing us are somehow marginal to our key concerns with the curriculum. The big challenges of our times are not central to our learning. Peter Hymen (2017) has remarked that “We have a one-dimensional education system in a multi-dimensional world. We are living in an age of big challenges, big data, big dilemmas, big crises, big opportunities. Yet ... (education) too often is small in ambition, small in what it values, small in its scope”. He argues that we need something different that can meet the challenges of our times and where we can properly engage with learning. His suggestion is that we need an engaged education that is academic (based deeply in literacy and numeracy and that is empowering); is about character building (involving independence and autonomy, resilience and open-mindedness for the individual); is concerned with creativity and craftsmanship and a can-do approach to innovation (which is about problem-solving). These three facets of learning correspond to an education of the head, the heart and the hand, and can help us overcome the artificial and

self-limiting and debilitating divisions we have between academic, vocational and technical education. Those who experience such learning understand that they have an obligation to voice their concerns and apply their knowledge to make the world a better place, not merely to make money, important though that may be.

WHAT DO WE NEED TO KNOW?

Although our concern is overtly with universities that currently provide mass higher education opportunities for many millions of learners worldwide, there is a disturbing reality facing us as the 21st century evolves. This concerns the relevance of what we take to be conventional university provision of learning and accreditation to the masses who simply cannot access such opportunities and who are in a majority globally. In an era where billions of people cannot access academic education, there is the question of “skill”, by which we mean how individuals primarily understand and grasp their environment in order to make it work for themselves. The better this understanding is, the better life can be. Skill is what people develop to survive and thrive in the environment in which they find themselves. Sometimes this involves changing that environment or seeking an entirely new one. This is a deeply cultural matter. It involves how the individual self-attends or relates to the environment that itself is “cultural”. Some commentators such as Crawford (2015) argue that the environment actually constitutes the self, rather than just impacting on it, and therefore how the individual pays attention to this environment becomes key to succeeding in it. In an internet-dominated world the idea of the public attentional world (what and who is on the internet and in our minds and for how long each day) gains some serious traction.

In acting on the world, however (in reality or in virtual reality), we find skill is a key part of the process. “Through the exercise of a skill, the self that acts in the world takes on a definite shape. It comes to be in a relation of *fit* to a world it has grasped” (Crawford 2015, p. 25). What is deeply problematical still, though, is how public space (including, spectacularly, the internet) in general diminishes the skill of understanding and acting on that environment. The digital and virtual world is one made up of mediations where our daily lives are saturated with representations that are made elsewhere. We make contact with the worlds of work, of family, of friendship, of communication, entertainment, consuming, learning and leisure through the apps and software provided for us. We make contact through, not with, these representations and become “skilled” at the point of gaining access but we do not make or construct the objects of our desires and we do not become skilled at practices that give us “agency”. Crawford argues persuasively that it is when we are engaged in a skilled practice that we can understand and own, as it were, a reality that is independent of the self and where the self (the individual as an identity) is understood as not being of its own making. The illusion of the internet is of course to implicitly infer that the virtual reality constructed by the “individualised” internet software has precisely been made by and for the individual self. The significance of this insight is that we believe that in the encounter between the self and the external world, skill, defined as the capacity to engage with and act on the real world, is the critical element. It embraces the skills of the head, the heart and

the hand and above all it means an engaged education that embraces the skills required for exercising scholastic freedom needed in universities.

The powerful mediating institutions that provide our means of accessing life on the internet are not democratically organised and accountable, no matter how much they assert their right to offer choice in a consumer-driven world. Neither do they offer freedom simply to communicate with whomever we wish even though we can reach almost every living human being on the planet with a hand-held device. The “real” reality is that we make contact almost exclusively now through the representations of people and objects that are provided to us on our devices by the media corporations. We no longer rely on ourselves and our own skills to do this and we are diminished potentially as a result. We are of course “free” to deny realities and to dissociate ourselves from the effort needed for skillful engagement. If we can pay, there are always others in a market who will provide these things for us.

The matter of skill thus becomes critical for our understanding of what universities might do and how they might reconstruct their curricula in the context of academic freedom. This is so in respect of two major objectives: first, the need to deliver learning programmes that equip students with critical thinking (as we have defined it in this paper), and, second, the need to recognise alternative forms of “skill” that those beyond the boundaries of conventional universities (i.e. the billions in the “third world”) possess but which go largely unrecognised and unrewarded.

Critical thinking is not a unitary phenomenon and it can have differing meanings within its different contexts. For the universities its significance is in the qualities it can develop in the student. For an engaged institution this might mean giving the learner the capacity to separate truth from ideology or “post-truth”. It should surely mean not taking things at face value or not letting others make up our minds for us. As Newman (2006) asserts, critical thinking, drawing on critical theory, is concerned with the idea of social justice and fairness and that knowledge can be generated and applied for an improved social result. It involves learning that should lead to an enhanced sense of self in the real world and not just in the virtual world. This means we might expect a more capable individual who is able to relate to others and be personally more responsible and “viable” in exercising their academic freedom.

A disputing university will then seek to reshape social knowledge to fit the emerging concerns and experience of its hopefully richly diverse students and of its communities. The concerns of global security and survival no less than those of contested identities and relationships require new knowledge to emerge. Critical thinking, contentious dialogue and authentic and democratic dispute has never been more needed. There is a great tradition in the western “engaged university” that now requires renewal with an agenda whose time has come.

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Perspectives on institutional autonomy in a European higher education context

Peter Maassen

INTRODUCTION

Throughout the last few decades, a large number of higher education reforms have been initiated by European governments with the aim of changing the basic legal and economic framework under which their national higher education institutions operate. The reforms have resulted in changes in the intra-institutional governance structures and allocation models, as well as in leadership and management functions and mandates, personnel policies and institutional strategies. These changes have been interpreted in academic literature in a number of ways, for example as efforts to turn universities and colleges into strategic organisational actors (Krücken and Meier 2006; Whitley 2008).

A key issue in the reform initiatives is the level of institutional autonomy, that is, the room to manoeuvre that individual universities and colleges have in determining their own affairs. An important assumption underlying the reform initiatives is that institutional autonomy should be enhanced in order for higher education institutions to be able to deliver the desired outcomes of the reforms. In addition to national governments, the European Commission (2006, 2011, 2017) has also produced a number of reform agendas for higher education, all showing a strong belief in the relationship between enhanced institutional autonomy and academic performance as well as the socio-economic relevance of higher education (Gornitzka et al. 2007; Maassen and Stensaker 2011). Strikingly, in the policy documents presenting the reform proposals, the invited formal comments on the proposals by various actors, as well as in the following public debates, hardly any attention was given to academic freedom and the possible impacts of enhanced institutional autonomy on academic freedom.⁴⁹ It is also worth noting that in academic literature, the ways in which the autonomy reforms of the last 30 years have affected academic freedom have hardly been discussed at all. Consequently, in this paper I will discuss first and foremost the developments in institutional autonomy in European higher education. The empirical data needed for a valid analysis of the relationship between enhanced institutional autonomy and academic freedom are

49. See, for example, the seminal Dutch Ministry of Education and Science's White Paper "Higher Education, Autonomy and Quality" (1985), in which the goal of enhanced institutional freedom to make strategic choices, and the increased freedom for students to choose the study programme they are interested in, are discussed in detail, while academic freedom is not mentioned at all.

in general (still) lacking, even though the complicated nature of the relationship is addressed by various authors (see, for example, Karran and Mallinson 2018).

In this paper, a distinction is made between two perspectives on institutional autonomy in higher education. The first perspective concerns developments in the formal governance relationship between public authorities and higher education institutions. This perspective is central in the academic literature, as well as the efforts of higher education institutions and their interest organisations, such as the European University Association (EUA), to monitor and map the developments in institutional autonomy. The second perspective concerns developments inside higher education institutions that are the result of changes in formal institutional autonomy. A relevant question from this perspective is: How is formal institutional autonomy interpreted and used inside higher education institutions? In addition, in this chapter three governmental reform ideologies or visions are identified and used for interpreting the general differences among institutional autonomy developments in European higher education systems (Olsen 2007; Maassen et al. 2019).

The paper is organised as follows. First, a brief review of recent studies on institutional autonomy will be presented, followed by a discussion of the notion of “living autonomy” in higher education and recent public administration literature addressing “*de facto* autonomy”. Next, the rationales underlying recent higher education reforms will be discussed, followed by an examination of how institutional autonomy is interpreted in the arguments and ideologies underlying reform agendas. Finally, the chapter will address differences among higher education systems in Europe and the possible consequences of these differences for the relationships between European and non-European higher education systems.

INSTITUTIONAL AUTONOMY IN EUROPEAN HIGHER EDUCATION

Recent studies of institutional autonomy in European higher education have focused especially on the formal governance relationships between state authorities and higher education institutions. The European University Association (EUA), for example, has over the last 10 years “scored” the developments in the formal autonomy status of universities in four categories of autonomy dimensions, that is, organisational autonomy, financial autonomy, staffing autonomy and academic autonomy (Estermann and Nokkala 2009; Estermann, Nokkala and Steinel 2011; Pruvot and Estermann 2017). The EUA reports rank higher education systems from a range of European countries for each of the four autonomy dimensions in a special scorecard. Referring to its latest report (Pruvot and Estermann 2017), the EUA concluded on its website that:

While some countries have achieved a relatively high degree of university autonomy in all or most of the four dimensions considered, the Scorecard helps to recognise that there is no unique model to foster autonomy. Countries scoring high in at least three dimensions include models as diverse as those in Finland, Luxembourg, Estonia or the UK (England). The report also reveals, predominantly, a persisting lack of a global view on university autonomy when designing and implementing reforms. In addition, the challenging economic context impacts autonomy in different ways, beyond

financial matters. Finally, public authorities are found to exert stronger steering through funding mechanisms, while concentration processes, such as mergers, raise new questions for university autonomy.⁵⁰

The EUA reports on institutional autonomy offer a broad perspective when it comes to the number of European countries included and the formal frameworks within which institutional autonomy can be examined. At the same time, they are examples of “mapping” studies, which are not based on conceptualisations of autonomy, but rather on the use of a “common sense” interpretation of key components of institutional autonomy. The focus is on comparatively assessing the formal autonomy status of higher education institutions in their national contexts by using a set of quantitative indicators, without addressing what the autonomy scores mean in practice for the functioning and performance of higher education institutions.

Another example concerns a study mandated by the European Commission to a consortium led by the Dutch Center for Higher Education Policy Studies (CHEPS). The study examined the level of formal institutional autonomy, its link with performance and the degree of compliance with the first EU modernisation agenda (European Commission 2006). In the study, four dimensions of institutional autonomy were used, that is, organisational autonomy, policy autonomy, interventional autonomy and financial autonomy. The main data source for the study was a questionnaire completed by national experts. As in the EUA study, the findings suggest a great variety in the level of formal institutional autonomy across European higher education systems (de Boer et al. 2010). The main challenges with respect to the validity of this study’s findings are first the way in which national expert data are used for correlating levels of institutional autonomy with higher education performance. Second, the study assesses the degree of compliance of national higher education governance reforms with the Commission’s 2006 modernisation agenda. This forms the basis for a number of normative recommendations, including “European universities should be granted more institutional autonomy overall” (de Boer et al. 2010: 6). The conceptual foundation of the design of the study provides an interesting insight into developments in key areas of the formal autonomy status of European higher education institutions. However, the study’s contributions to our understanding of the empirical impact of autonomy reforms are very limited.

A number of studies have more explicitly addressed the relationships between formal institutional autonomy and the level of autonomy of higher education institutions in practice, that is, their actual room to manoeuvre vis-à-vis their public authorities, and other major stakeholders. Enders, de Boer and Weyers (2013) use the Netherlands as an empirical case for analysing the tensions between formal and “real” institutional autonomy. For the authors, “real” autonomy refers to the room to manoeuvre higher education institutions have in practice. Any limitations on “real” institutional autonomy are argued to be a consequence of the demands

50. See the appropriate part of the EUA’s website, where the 2017 report can be downloaded: <https://eua.eu/resources/publications/350:university-autonomy%C2%A0in-europe-iii-%C2%A0the-scorecard-2017.html>, accessed 3 May 2019).

for accountability and control focus of the public authorities. The authors build on the academic literature on institutional autonomy from the 1980s (see, for example, van Vught 1989), while adding a discussion on New Public Management (NPM) reforms in Europe since the early 1990s to the understanding of the nature of recent changes with respect to the level of formal institutional autonomy in higher education. Referring especially to the situation in higher education in north-western Europe, Christensen (2011) emphasises that institutional governance reforms in higher education are a reflection of broader NPM reforms that aim at increasing efficiency in public organisations. Even though institutional autonomy is formally strengthened in many European higher education systems in financial, management and decision-making matters, Christensen (2011: 504) argues that because of accountability and reporting demands, new incentives and competitive funding schemes, and other measures, reforms have actually resulted in a decrease in the “real” autonomy of higher education institutions.

Like the “mapping” studies referred to above, these investigations of institutional autonomy are also focused on the formal governance relationship between public authorities and higher education institutions, guided by the assumption that the main factors influencing the actual use of institutional autonomy inside universities and colleges are external. The expectation underlying the reforms that enhanced institutional autonomy leads to more effectively operating institutions is not explicitly discussed.

Overall, the implication is that most of the studies and reports focusing on autonomy in higher education do not provide insights into how universities and colleges perceive their institutional autonomy and how they use their “room to manoeuvre” in practice. This is a major flaw given that insights into the formal legal framework conditions with respect to institutional autonomy are not sufficient for understanding practical governance circumstances under which European higher education institutions are operating. In order to understand institutional autonomy in practice, various factors have to be taken into account, including national and institutional cultures; political, bureaucratic, and legal traditions; and economic, social and geographical circumstances affecting higher education systems.

With respect to “real” institutional autonomy in higher education, the notion of “living autonomy” has recently been introduced, referring to the way in which the changes in the formal governance relationship between public authorities and universities are perceived, interpreted, operationalised and used inside universities and colleges (Maassen, Gornitzka and Fumasoli 2017). In this, it is of importance to acknowledge that changes within higher education institutions can in general not be dictated by external reforms. For any kind of regime, the scope for successful purely external design of higher education systems and institutions is limited and can only be expected to play a determining role under special circumstances, such as performance crises or external emergencies. The impact of external factors (both in the form of explicit reforms and expectations from larger sets of environmental actors) is determined first and foremost by processes within higher education institutions and is shaped by the internal structures and cultures, and institutionally defined expectations, ideas and practices. Hence, a discussion of the impacts of institutional autonomy reforms in higher education cannot stop

at the gates of the individual university or college, or at its central leadership and governance bodies and their members, but has to go beyond them by examining the living autonomy.

The notion of living autonomy is embedded in recent public administration discussions of “*de facto* independence”, which refers to agencies’ autonomy in practice when it comes to their day-to-day activities (Verhoest et al. 2004; Maggetti 2007; Maggetti and Verhoest 2014: 240). These scholars argue that “De facto independence can be seen as the combination of the (relative) self-determination of agencies’ preferences and the (relative) lack of restrictions during their regulatory activity, both with respect to elected politicians and regulatees” (Maggetti and Verhoest 2014: 242-243). Referring to the distinction between formal and *de facto* autonomy of public sector agencies, the subjective, perceptual nature of autonomy is an important element for analysing and understanding the impact of higher education reforms. The COBRA network⁵¹ forms a research community that is measuring perceptual data on organisational autonomy from a comparative perspective. However, “a genuine in-depth investigation of how bureaucrats, regulators or politicians understand the concepts of autonomy and independence is lacking” (Maggetti and Verhoest 2014: 245). The work of the COBRA network and this observation by Maggetti and Verhoest are highly relevant for our interest in the impact of higher education reforms in Europe. They highlight the importance of the perception of institutional autonomy for the behaviour of those who are supposed to be affected by it, and they suggest that there are hardly any empirical data on the subjective dimension of institutional autonomy. This has to be kept in mind when discussing and interpreting higher education reforms that are intended to enhance institutional autonomy in European higher education.

RATIONALES FOR UNIVERSITY AUTONOMY REFORMS

The lines of argumentation promoting enhanced institutional autonomy in Europe that we can observe in reform agendas, policy documents, public debates and academic literature point at first glance in the same direction. In general, it is argued that enhanced institutional autonomy will have positive effects on issues such as institutional strategic behaviour and profiling, system diversity, the socio-economic responsiveness and relevance of higher education institutions, and the quality of higher education’s primary processes of teaching and research. What is the underlying interpretation of institutional autonomy in higher education?

The key question is how to create an effective balance between society’s need to have sufficient control over higher education versus the higher education institutions’ need for an appropriate level of freedom in handling their own affairs (Clark 1983; Olsen 2007; Roness et al. 2008). The reason for autonomy being a key policy issue in higher education is that an ideal situation, in the sense of a stable, perfect level of institutional autonomy, does not exist. At any moment in time, the debates on the appropriate level of institutional autonomy reflect the “*zeitgeist*”, that is, the dominant underlying ideology or vision with respect to the preferable

51. See: <https://soc.kuleuven.be/io/cost/about/cobra.htm>, accessed 26 August 2019.

model of governing and organising society, with higher education as one of the central social institutions (Olsen 2007, 2010). This has also been the case in the last few decades: national and EU reform agendas promote the enhancement of institutional autonomy, reflecting the dominant political view on the most effective governance relationship between state authorities and higher education institutions (Gornitzka 1999; Maassen 2008; European Commission 2006, 2011, 2017).

Throughout Europe, political parties along the whole ideological spectrum have embraced since the 1980s a belief in the positive outcomes of enhanced autonomy of public sector organisations combined with a changed role for the state, from detailed steering to supervising at a distance. Mazzucato (2013: 15) has described this as a belief in “a dynamic, innovative, and competitive ‘revolutionary’ private sector versus a sluggish, bureaucratic, inertial, ‘meddling’ public sector”. Consequently, autonomy reforms of public sector organisations, such as universities and colleges, were aimed in this period at making them operate more like business corporations. The rationale for introducing these new governance modes in higher education was derived from increased expectations when it comes to the contributions of higher education institutions to strengthening economic competitiveness, reducing social exclusion and solving a large number of “grand challenges”. Higher education became a “transversal problem solver”, but it was claimed that for it to be able to live up to the expectations, (more) reforms were needed. The European Commission did, for example, state that “European higher education systems have fallen behind over the last few decades, in terms of participation, quality, and in research and innovation” (Figel 2006: 3). The Bologna Process was seen as a successful reform example, but it only covered one aspect of the reforms needed. What was needed in addition was “root-and-branch reform of the way our universities are managed, structured, funded, and regulated” (Figel 2006: 5). At this time, national reform agendas also expressed a worry about the functioning and performance of higher education institutions and proposed as one of the key measures for improving higher education’s performance enhanced institutional autonomy. While the effects of these reforms have been promised more than evidenced, nonetheless, over the last few decades in most European countries, the governance relationship between the state and higher education has been modified in this direction. At the same time, a number of elements seem to be missing from the reform agendas. These include an operationalisation of the new role of the state, in the sense of a clarification of the nature of the adapted governance function of the state and its agencies *vis-à-vis* a more autonomous higher education sector. Further, an adequate interpretation of the basic features of universities and colleges is necessary for understanding how they can be changed in an effective way, leading to the expected outcomes without higher education institutions running the “risk of losing their charitable status and public support” (Olsen 2007: 26-28; Whitley 2008: 24; Maassen 2017).

Various factors, including the 2007/08 financial crisis, led to scepticism towards this belief in “supervising at a distance”. What also played an important role is that the higher education reforms have not entirely produced the anticipated results. We are witnessing in many European countries an almost continuous wave of public

debates, policy initiatives and reform agendas aimed at providing more effective modes of governance, funding and organisation for higher education institutions. However, as argued by Maassen and Olsen (2007: 9): “University reform documents give little attention to the possible role of universities in developing a humanistic culture, social cohesion and solidarity, and a vivid public sphere”.

This narrow reform focus on a limited number of aspects of the roles and functions of higher education in European societies runs the risk of altering the status of and public support for higher education, with potentially far-reaching negative consequences not only for higher education, but also for the entire institutional foundation of these societies (Maassen and Olsen 2007). This narrow focus is in line with gradual changes in the interpretation of institutional autonomy emphasising more external than internal factors (Yokoyama 2007). This development is discussed in the next section.

NEW INTERPRETATIONS OF INSTITUTIONAL AUTONOMY IN HIGHER EDUCATION

Traditionally, institutional autonomy in higher education is interpreted in relation to academic self-governance and academic freedom. Academic self-governance has to do with control of academics in all institutional matters concerning students, staff, standards and degrees, curricula, and research management (Ashby and Anderson 1966). Academic freedom concerns the freedom of the individual scholar in his/her teaching and research to pursue truth wherever it seems to lead without fear of punishment or termination of employment, for example, for having offended some political religious or social orthodoxy (Berdahl 1990; Ashby and Anderson 1966). Taking these two notions as a starting point, Berdahl (1971, 1990) has suggested that the concept of autonomy can be divided into two parts. The first he called substantive autonomy, which he argues is anchored in academic freedom. It is dealing with the basic role and mission of higher education institutions, the nature of the study programmes taught, the research undertaken (the “what” of academe). The second part Berdahl called procedural autonomy. It concerns the ways in which higher education institutions carry out their missions, including administrative procedures and routines, and personnel policies (the “how” of academe).

Over the last few decades, this traditional interpretation has gradually been replaced by a focus on the mutually dependent relationship between autonomy and accountability. Neave (1988; see also Neave 2001) in an early stage of this process introduced the two contrasting notions of “private” and “public” definitions of institutional autonomy. The “private” definition addresses first the right of academic staff of universities and colleges to determine the nature of their academic work, and consequently encompasses the notion of “academic freedom”. Second, it refers to the purposes and functions of the higher education institutions for which they themselves are responsible, implying that it also includes the notion of “self-governance”. The “public” definition of institutional autonomy refers to the higher education institutions’ purposes and functions determined by external stakeholders, including politicians, bureaucrats, employer organisations and unions. A key aspect underlying the “public” definition is accountability of higher

education institutions to external stakeholders on how they have used their institutional autonomy (Bladh 2007).

Potential tensions emerge when it comes to the nature of higher education institutions' accountability requirements, as these institutions have unclear goals to assess. This is a result of their basic technologies – related to the production and dissemination of knowledge – being unclear and ambiguous, implying that it is impossible to predict with 100% certainty the outcomes of education and research activities at their start, and to link input to output (Cohen and March 1974; Musselin 2006; Olsen 2007; Whitley 2008). An additional issue is that a growing number of stakeholders have become involved in system and institutional level governance of higher education. They have in general different and competing ideas on institutional autonomy when it comes to the room for manoeuvre higher education institutions should have in determining how they should be organised, governed and funded, how they should relate to society, and how they should be held accountable. Recent higher education reforms strictly incorporate the “public” definition of autonomy and the accountability relationship between higher education institutions and external stakeholders. The extent to which enhanced institutional autonomy should also encompass the “private” definition of autonomy, including the protection of academic freedom, is lacking in the reform agendas.

Another aspect of relevance for understanding in more detail how institutional autonomy is developing in practice is the impact of national political contexts. This is necessary for any meaningful discussion of the differences between European countries when it comes to how institutional autonomy has developed in practice over the last decades.

NATIONAL CONTEXTS AND PUBLIC GOVERNANCE OF HIGHER EDUCATION

Changes in higher education governance and organisation depend in many respects on the political matrix of the public governance of higher education, that is, national political, legal and financial arrangements with respect to higher education (Braun 2008). In this chapter, three fundamentally different approaches to the public governance of higher education are identified, based on the work of the Norwegian political scientist Johan Olsen (2007, 2009, 2010), that is, higher education institutions as:

1. service enterprises embedded in competitive markets, which are required to contribute to economic growth and competitiveness (market co-ordination and competition, abbreviated as MCC);
2. instruments for national political agendas, which are required to contribute to the implementation of national development agendas and realisation of political goals (national political agendas, abbreviated as NPA);
3. social institutions, which are expected to contribute to the realisation of various political, scientific, economic, social and cultural goals, as well as to the further development of open, democratic societies (social institutions and open society, abbreviated as SIOS).

On a global level these three basic governance approaches can to some extent be linked to the three major scientific “blocks” that can currently be identified, that is, the USA/North America, China/East Asia and the European Union.⁵²

The first approach (MCC) can be found in those countries that most directly follow a market-oriented and competition vision in their higher education governance approach, that is, especially, the USA and other English-language countries, including the United Kingdom (especially England), Australia and, to a lesser extent, Canada. In the USA, this governance approach has, for example, meant that state appropriations to public flagship universities have decreased rapidly since the 1960s (Geiger 2004). In other English-language countries governments also believe in the positive impact of competition; more direct relationships between higher education institutions and their users or clients; private, diversified funding (including high levels of tuition fees); and needs-driven research agendas. In these countries, the role of the state and the size and formal mandates of the public domain have been adapted, and in many ways reduced, over the last few decades, and the political economy can be characterised as a liberal market economy (Hall and Soskice 2001).

The second approach (NPA) can be observed in those countries in which higher education is first and foremost regarded as one of the key institutions for implementing and realising national political agendas. As a consequence, the institutions’ governance structures and practices are in general quite strictly controlled by the state authorities, for example, through a very powerful ministry and detailed policies, such as in Japan and Russia, or through a direct inclusion of state representatives in the institutions’ leadership structures, such as in China. In most national cases, excellence is regarded as a key concept for enhancing in particular the research universities’ role in stimulating the country’s global competitiveness.⁵³

Therefore, relatively large amounts of earmarked public funding are invested in institutional and disciplinary excellence schemes, with the aim of strengthening the quality and relevance of selected universities’ research and education activities and connecting them more directly to the implementation and realisation of national agendas. Many policies are introduced to stimulate the institutions’ academic quality and relevance, but on a trial-and-error basis. This implies that there is a rather low level of stability in the institutions’ environment and they have to adapt regularly to new productivity-enhancing measures and policies introduced by the state authorities. In these countries, the role of the state and the size and formal mandates of the public domain have been relatively stable over the last few decades, and the political economy can be characterised as a state-led economy or state-led market economy.

52. The notion of global rivalry is in more general terms expressed by the German Chancellor Angela Merkel in an interview given before the European elections of May 2019. She added Russia to China and the US as Europe’s main global rivals. As indicated by Chancellor Merkel: “This is indeed a time when we need to fight for our principles and fundamental values” (see: www.theguardian.com/world/2019/may/15/angela-merkel-interview-europe-eu-unite-challenge-us-russia-china, accessed 15 May 2019).

53. See, for the case of Russia, Gazizova, Panfilova and Makarova (2016).

The third approach (SIOS) can be found in those countries where the state authorities adhere to a more balanced mixture of ideas underlying their higher education governance model instead of emphasising one dominant vision. For example, in parts of continental Europe government funding levels remain relatively high, tuition fees are low or disallowed, and institutional governance structures try to maintain a balance between democratic and executive principles and components (Gornitzka, Maassen and de Boer 2017). While we also see in these countries a growing reliance on the working of the marketplace and competition, and a focus on the contribution of higher education institutions to strengthening the national economic competitiveness, at the same time the promotion of open societies, the strengthening of democratic institutions and multiculturalism are important elements of the higher education governance approach. In these countries, the role of the state and the size and formal mandates of the public domain have been adapted, but not necessarily reduced, over the last few decades, and the political economy can be characterised as a co-ordinated market economy (Hall and Soskice 2001).

In Table 1, an overview is presented of these differences with respect to key aspects of institutional autonomy and governance.

Table 1: Impacts of national higher education governance approaches on selected institutional autonomy aspects

Higher education governance approach – Institutional autonomy aspects	Market co-ordination and competition (MCC)	National political agendas (NPA)	Social institutions and open society (SIOS)
Role of governance actors and bodies	To assure economically defensible management; to carve a market niche for its HE institution	To create a link between the state and its HE institution and to control strategic development of institution	To minimise executive governance and stimulate strategic decisions about academic development
Key characteristics of leader(s)	CEO/Executive unit leader	Rules/procedures manager	Elected/appointed “primus inter pares” (to assure democracy and co-determination)
Authority through...	Professional leadership authority	Formal positional authority	Academic competence, resources, networks
Role of state authorities	Facilitator	“Principal”; control and steering through rules	Patron of institutional sphere; negotiation partner

(Inspired by Olsen 2007; Gornitzka, Maassen and de Boer 2017)

These three ideal types of higher education governance approaches differ considerably when it comes to their arguments for promoting institutional autonomy in key governance areas. According to Olsen (2007: 30) the main overall arguments for the MCC approach to promote institutional autonomy are the need for direct responsiveness to “stakeholders” and external exigencies, and the assumption that institutional competition stimulates academic quality and productivity. The NPA approach allows for institutional autonomy with arguments related to relative efficiency. The SIOS approach uses a mixture of arguments, including the constitutive principle of higher education as an institution, where authority should rest with those who are best qualified. These different arguments lead to differences among nation states in the extent to which the state authorities allow higher education institutions to exercise authority over their internal affairs and processes, including personnel policies (Whitley 2008: 27). Consequently, dealing effectively in international higher education relationships and collaborations with the growing differences over issues such as institutional autonomy, political control and academic freedom has become much more complicated over the last few decades. One element in this is reflected in the introduction of the notion of “science diplomacy” (Wissenschaftsrat 2018: 37), reflecting a growing connection between foreign affairs and science policies at the national level.

NATIONAL CONTEXTS AND INSTITUTIONAL AUTONOMY IN EUROPE

An important aspect in the discussion of institutional autonomy in European higher education is the examination of differences in the developments of institutional autonomy among European higher education systems. In the above examination, “Europe” was presented as the possible defender of specific principles and values (see also Chancellor Merkel’s position⁵⁴ in footnote 52) underlying the arguments for institutional autonomy through SIOS as the dominant higher education governance approach. Nevertheless, at the same time, the intra-European diversity when it comes to higher education governance and arguments with respect to institutional autonomy has grown quite dramatically over the last 10 to 15 years. The SIOS governance approach is promoted by key (continental) EU member states, such as France and Germany, but other European countries have over the last decade and a half developed a preference for either an MCC or an NPA approach. The prime example of the former is the governance model for higher education in the United Kingdom, and especially England,⁵⁵ which is dominated by MCC principles. This comes to the fore in central governance aspects, such as the mandate and remuneration levels of institutional leaders, and the high level of discretion of English

54. In the interview referred to in footnote 52, Chancellor Merkel states that “Europe needs to reposition itself in a changed world”. Given her inclusion of Russia among Europe’s main global rivals, it can be assumed that she refers in her interview to the EU and its European partners, including the EFTA countries and Switzerland.

55. Higher education is in the United Kingdom a devolved competence, so the governance of higher education differs between the four countries of the United Kingdom.

universities in areas such as organisational structures, academic programme development and student selection. On the other hand, there are a number of countries in Europe, for example, Hungary, Russia and Turkey, where the NPA governance approach has become dominant also in higher education. This can be illustrated by the efforts of the state authorities to strengthen their control over the higher education institutions' development and operations through the introduction of more detailed control-oriented rules, regulations and procedures, and by efforts to control the selection and appointment of institutional governance actors. An example of the latter is the position of chancellor in Hungarian universities. This position was introduced in 2014, with all chancellors being selected and appointed directly by the Hungarian prime minister. A chancellor must approve, among other things, all staffing and financial decisions within the university where he/she is positioned, which limits "regular" university leadership's room for manoeuvre (Pruvot and Estermann 2017: 21).

When we try to link the examination of (changes in) formal institutional autonomy in European higher education with the analysis of the impacts of national governance approaches on key aspects of institutional autonomy, we face an important challenge. This can be illustrated by a closer look at the 2017 EUA Scorecard (Pruvot and Estermann 2017). This scorecard has ranked 29 European higher education systems (24 countries, the French-speaking community of Belgium, Flanders, and three German *Länder*) in four "autonomy" clusters. The underlying assumption is that the higher the level of institutional autonomy, the better higher education institutions can perform. Combining the scores in the four categories produces the autonomy ranking presented in Table 2. In each of the four categories (organisational, financial, staffing and academic autonomy), the 29 systems were ranked in four clusters, with the top cluster indicating a high level, the second cluster a medium-high level, the third cluster a medium-low level and the fourth cluster a low level of autonomy. By giving each system a score for each cluster in which they are positioned (1 for the high, 2 for the medium-high, 3 for the medium-low, and 4 for the low autonomy cluster) and adding up all scores, the 29 systems can be ranked. As can be seen in Table 2, the United Kingdom⁵⁶ (with a score of 4) is the only system positioned in all high autonomy clusters. On the other hand, France and Hungary received the lowest overall scores, being positioned in three medium-low and one low autonomy cluster (giving a score of 13). The position of each system in the four clusters per autonomy category is determined on the basis of a score on a scale of 0 to 100% expressing the level of autonomy, with 100% indicating full autonomy and 0% no autonomy. This allows for a more refined ranking of the 29 systems, with four systems scoring more than 80% on average (United Kingdom, Estonia, Finland and Denmark), and only France scoring below 50% on average.

56. In the 2017 EUA report, "United Kingdom" refers in essence to England only (Pruvot and Estermann 2017: 10).

Table 2: Autonomy ranking of 29 European higher education systems based on the EUA 2017 Scorecard (Pruvot and Estermann 2017)

Rank	System	Score: four clusters (1-4 per category)	Score: average per category (%)	Rank	System	Score: four clusters (1-4 per category)	Score: average per category (%)
1	United Kingdom	4	93.5	15	Netherlands	9	66.75
2	Estonia	5	90.75	16	Portugal	9	66.5
3	Finland	5	85.5	17	Hessen	9	65.75
4	Denmark	6	81	18	Flanders	10	64.25
5	Luxembourg	7	77	19	Iceland	10	63.75
6	Lithuania	7	68.5	20	Brandenburg	10	61.75
7	Switzerland	8	71.75	21	Italy	10	58.75
8	Latvia	8	70.5	22	Slovakia	10	57.25
9	Sweden	8	70	23	French Community of Belgium	11	54.5%
10	Poland	8	68.25	24	Slovenia	11	52.5
11	Ireland	8	67	25	Spain	12	54
12	Norway	8	66.5	26	Croatia	12	52.25
13	North Rhine-Westphalia	8	65.5	27	Serbia	12	50.25
14	Austria	9	70.5	28	Hungary	13	50.75
				29	France	13	46

The overall picture emerging from Table 2 is that the United Kingdom is the “champion” of institutional autonomy, with the Baltic countries and two Nordic countries (Finland and Denmark) as well as Luxembourg and Switzerland having high scores for the level of autonomy of their higher education institutions. On the other hand, southern European countries in particular, as well as the countries of the former Yugoslavia, have persistently low autonomy scores, with other higher education systems, including those of the German *Länder*, the Netherlands and Poland, positioned somewhere in between.

As indicated, linking these kinds of mapping studies of formal institutional autonomy with the analysis of the impact of national higher education governance approaches poses a challenge. The EUA studies consist of an examination of the level of institutional autonomy per country that is based on categories of formal autonomy. They give an insight into the formal room for manoeuvre of higher education institutions, based mainly on national legal framework conditions and the opinions of selected national experts. They do not show how this formal room for

manoeuvre is used in practice, nor do they provide an insight into other aspects of institutional autonomy, including academic freedom. What would be needed to achieve that purpose is, for example, the development of indicators that would allow for the empirical examination of qualitative autonomy aspects, including the support for and promotion of specific principles and values in education, research and “third mission” strategies and activities in higher education institutions in Europe and elsewhere.

CONCLUSION

For a comprehensive understanding of the nature of the changes in institutional autonomy in European higher education, and their impacts on the organisation, governance, funding, functioning and performance of higher education institutions, it is not sufficient to examine the formal legal terms of operation, written performance contracts or the outcomes of negotiating, contending parties. While changes in formal autonomy are of importance, institutional autonomy has to be understood also from the roles that higher education institutions have created for themselves in their society. This perspective on institutional autonomy reflects how higher education institutions have established their own remit and been allowed to test out the limits of their room for manoeuvre within their national contexts. Institutional autonomy and systemic roles are path-dependent and have developed in natural historical processes, where identities and rules about what are appropriate actions and behaviour have moved forward incrementally through experiential learning (March and Olsen 1995). In other words, specific aspects of what is acceptable and possible with respect to higher education governance in one country will not necessarily be acceptable and possible in another country. This also applies to the differences among countries’ developments with respect to academic freedom. This suggests that impacts of higher education reforms are largely dependent on how they match with and are absorbed by existing cultures, practices and organisational identities of universities and colleges.

Therefore, for stimulating the further development of a common policy approach to institutional autonomy in European higher education, acknowledging the existing diversity among higher education systems is of importance. At the same time, for upholding the position of European higher education in the global science community, the commitment of national governments to a specific European higher education governance perspective that is embedded in those principles and values addressed by Chancellor Merkel (see footnote 52) is crucial. For that to be possible, a number of steps can be identified, including the following. First, we need to improve our understanding of institutional autonomy in practice by developing and using more appropriate autonomy indicators. Second, we need to move beyond “mapping studies”, and studies of formal institutional autonomy, and develop and use research capacity for conducting studies on the living autonomy in higher education, and how autonomy reforms have influenced academic freedom. Third, defending specific European principles and values with respect to institutional autonomy and academic freedom is not only important in academic relationships with third (non-European) countries, but also within Europe.

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Curbing university autonomy and academic freedom in the name of quality assurance, accountability and internationalisation in East Asia

Que Anh Dang and Takao Kamibeppu

ABSTRACT

Different traditions of knowledge production and variations in history, political cultures, educational cultures and state–university relations suggest different interpretations of academic freedom and university autonomy. This paper provides a new perspective and expands the understanding of institutional autonomy and academic freedom by analysing the practices of state interventions and the consequences of neoliberal reforms in East Asian higher education. Our analyses advance two main arguments. First, that in East Asia, authoritarianism is not the only threat to institutional autonomy and academic freedom; the application of market fundamentalism in higher education reforms leads to even tougher curbs on them. And, second, that greater institutional autonomy may not ensure academic freedom at the individual level.

Keywords: academic freedom; university autonomy; developmental state; East Asia.

INTRODUCTION

Discussions on infringement of academic freedom and university autonomy have increased in international forums in numerous countries in Asia, Europe, the Americas, Oceania and Africa. Academic freedom and institutional autonomy in higher education are often promoted in academic literature as universal ideals and fundamental values (Bergan 2011; Karran 2009; MCU 1988; UNESCO 1997). However, different traditions of knowledge production and dissemination suggest different interpretations of the ideal of academic freedom and, hence, a different relationship between the scholar, university and society. Consequently, definitions and practices of academic freedom and university autonomy vary across the world, according to variations in history, political cultures, educational traditions and state–university relations (Marginson 2014; Tierney and Lanford 2014). With this position in mind, the norms and values of teaching, learning and research in higher education systems in East Asia and the type of university governance

models presented in this chapter will provide a new perspective and help expand the understanding of academic freedom and institutional autonomy.

When analysing our data collected from our own participant interviews or gleaned from the literature, we focus on the distinctive practices of academic freedom and higher education governance in the East Asian region. Within the scope of this chapter, “East Asia” refers to the north-east Asian countries, namely China, Japan and the Republic of Korea, and South-East Asian members of the Association of Southeast Asian Nations (ASEAN⁵⁷). This region has undergone a profound transformation, represents one of the fastest-growing higher education sectors in the world and comprises diverse higher education systems in terms of size, culture, religion, political context and developmental stages. However, many of these countries share an important common institution often known as the “developmental state” (Beeson 2004; Johnson 1999), which is involved excessively in various aspects of national socio-economic systems, including education through a specialised bureaucratic apparatus that has ample power to co-ordinate various development policies.

The dominant view of the extant literature written by international authors and also many scholars of this region is that institutional autonomy and academic freedom are restricted, violated or largely absent in many East Asian countries when benchmarked against western norms and values (Altbach 2001; Dee, Henkin and Chen 2000; Fitzgerald 2012; Lao 2015; Ren and Li 2013; Sirat 2010; Tierney and Lanford 2014; Varghese and Martin 2013). These works often provide a narrow perspective based on limited examples of extreme cases to depict and generalise the negative effects of authoritarian regimes and also of religion on university autonomy and academic freedom in many developing countries in East Asia (Brewis 2019; Kraince 2007; Le and Hayden 2017; Yang, Vidovich and Currie 2007). This body of literature is often deficient in providing a broad-based, eclectic perspective on the complex causal relations between academic freedom, scholars, universities, the state, the market and socio-cultural environments in East Asia.

This chapter, therefore, attempts to broaden the conceptual understanding of institutional autonomy and academic freedom by explaining state–university relationships and by examining the consequences of market-oriented higher education reforms in the context of East Asia. Across the region, there have been changes in the autonomous status of many leading universities, but this change has often been accompanied by many new managerial mechanisms (contracts, performance indicators, for example) and new governance structures that have vested greater authority in a governing body, such as a Board of Trustees or University Council with external representatives, as has occurred in Indonesia, Thailand and Vietnam. In a similar fashion, there has been a strengthening of the role of senior administrators, university vice-chancellors or presidents, as has occurred in Malaysia, Singapore and Japan. However, greater institutional autonomy does not always guarantee academic freedom for individual academics.

At the macro level, the state plays a crucial role in determining institutional autonomy and academic freedom in East Asia, and the chapter also looks at the practices of

57. ASEAN (www.asean.org) was established in August 1967 and today it brings together 10 member states, namely Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

implementing various public policies and higher education reforms at meso (institutional) and micro (individual) levels. Through policy reviews and 12 participant interviews and focus group discussions, we examine the practices on the ground in several countries and across different types of higher education institutions, ranging from public to private, prestigious and non-established universities. Our analyses advance two main arguments. First, in East Asia authoritarianism is not the only threat to institutional autonomy and academic freedom, and the application of market fundamentalism in higher education reforms leads to even tougher curbs on them. And, second, greater institutional autonomy may not ensure academic freedom at the individual level.

The chapter proceeds as follows. Following this introduction, the next section explains the concepts of academic freedom and the developmental state and their relationship with the higher education sector at the macro level. The third section analyses empirical data and examines the impact of neoliberal reforms on academic freedom and university autonomy. In many countries, such reform may lead to greater institutional autonomy, but academic freedom of individuals is further curtailed. The terms “university autonomy” and “institutional autonomy” are used interchangeably in this chapter and refer to the autonomy of universities and other types of higher education institutions. The fourth and final section draws some conclusions about the causes that constrain university autonomy and academic freedom and outlines possible ways to alter the current practices.

UNIVERSITY AUTONOMY, ACADEMIC FREEDOM AND DEVELOPMENTAL STATE

Negative and positive freedom

As mentioned at the outset, definitions and practices of academic freedom and university autonomy vary across the world. Given the shared colonial past of most South-East Asian countries, it is important to emphasise the distinction between “freedom from” and “freedom of”. Drawing on the two concepts of negative freedom and positive freedom introduced by the Russian-British philosopher Isaiah Berlin (cited in Carter 2018), freedom from (negative freedom) refers to the state of being subject to or affected by someone or something undesirable, such as colonial powers or dictatorship. For example, higher education institutions in several ASEAN countries established by the British or French in the past were primarily intended to train a local elite that was loyal to the economic and political interests of the colonial powers and could manage local populations, rather than create intellectual arenas for local scholars to engage in the search for truth (Dang 2016). Broadly speaking, when other people prevent scholars from doing something, either directly by what they do, or indirectly by supporting social and economic arrangements that disadvantage scholars, then to that extent they restrict academic freedom.

Freedom of (positive freedom) refers to a special entitlement or right to act in a manner that scholars see fit (Tierney and Lanford 2014). Whereas negative freedom is freedom from control by others, positive freedom is freedom to control oneself. Positive freedom in academia is more complex and culturally variant because ideas of social action differ across countries. Academic freedom is also linked with notions of the social responsibility of academics and universities. In East Asia, this includes responsibility for

the good order and stable reproduction of state and society. Thus, academic freedom must be understood and analysed in the social interactions and articulations between universities, state, society and the public good (Marginson 2014). For example, many scholars in Confucian-heritage cultures, such as China, Korea, Japan, Singapore and Vietnam, are willing to articulate their intellectual pursuits with the state's needs and put collective interest above that of the individual. Similarly, in Indonesia, with its Islamic culture, many Indonesian PhD candidates who are currently working as university lecturers told us at doctoral symposia and in their personal statements that one of the reasons for pursuing PhD studies is to develop their country. In practice, individual scholars who contribute with valuable and useful knowledge for national development may enjoy a high level of intellectual authority and social status. Knowledge production and scholarly advancement derive not only from an individual's interest but become an integral part of a national effort in the catching-up strategy of the "developmental state" in this region. The next section will examine the state–university relationship and its impact on institutional autonomy at the macro level.

Developmental state and university autonomy

The role of the state in higher education looms large in many, if not most, countries in East Asia. The concept of "developmental state" has frequently been used to describe the countries in this region, which over the past five decades have experienced rapid, state-led economic growth, poverty reduction and an expanding higher education sector. These developmental states use their autonomy to "plan, orchestrate or steer economic, political and societal strategies" to catch up with a more advanced – not necessarily the most advanced – reference country (Jessop 2016: 3). Developmental interventions have taken place in four areas, namely physical economic infrastructure; human infrastructure, including education; financial and budgetary policy; and industrial policy. The state became the main investor in the areas considered important for statecraft. Each of these areas linked into the others and these links have been vital in promoting overall economic growth (Stubbs 2005).

Education policies are a significant part of the developmental state success stories, first from East Asian economies, such as Japan, the Republic of Korea, Taiwan and Hong Kong, and more recently from South-East Asian countries, such as Malaysia, the Philippines, Singapore, Thailand and Vietnam. They have created centrally planned, universally available, standardised and state-driven and state-subsidised education systems (Gopinathan 2007; Marginson 2011). Through substantial investment in the expansion of secondary education, with a greater emphasis on natural sciences and technology in the curriculum, and the expansion of higher education, these states have been able to achieve a tight coupling of education and training with state-determined economic policies. The developmental state, therefore, gains political legitimacy from its citizens by harnessing education for its economic growth aims (Doner, Ritchie and Slater 2005; Loke, Chia and Gopinathan 2017). The successful experience of rapid economic growth holds out the promise that a strong state and rational planning can rescue countries from underdevelopment, and they also offer a more egalitarian brand of capitalism than is common in the West (Prasad 2013).

However, the Asian crisis in the late 1990s revealed the vulnerability of the developmental state to the dynamic competitive pressures of globalisation and prompted

a search for alternative economic and political strategies to recalibrate and reorient developmental states in the age of the knowledge-based economy (Beeson 2004; Jessop 2016). Having realised that they cannot be immune to the impact of economic globalisation, the East Asian countries also introduced neoliberal market-oriented policies in many sectors of the economy, including higher education and research. But what happens when neoliberalism meets the developmental state? In this new context, the East Asian states have continued to be highly interventionist in their economies and social reforms, and have “resolutely defended their national economies at the same time as aggressively entering the global market” (Green 2007: 33; Mok 2007). The nature of state interventions, however, is different from the previous period: setting new rules, steering and controlling at a distance, investing to a lesser extent. A series of new public management reforms was rolled out in East Asia. Systems of higher education are refashioned as quasi-markets and universities are remodelled as entrepreneurial corporations (Olds 2007; Wong, Ho and Singh 2007) while state control is maintained (Marginson 2011). Drawing on the experience of the European Bologna Process and the European Higher Education Area,⁵⁸ East Asian countries also began to develop regional higher education co-operation (Dang 2017). Thus, university autonomy, which is largely determined by the state–university relationship, has become more complex across several tiers of governance shaped by the combination of decentralised market-oriented reforms, state interventions and regional harmonisation of a dual process of vertical (North-South between ASEAN and Japan, China or South Korea) and horizontal (South-South, among ASEAN members) integration.

Within the concept of multi-level governance, Hooghe and Marks (2003) distinguished two types: type 1 is federalism and refers to the devolution of authority to a limited number of governments (central, local); type 2 involves larger number of jurisdictions operating at numerous scales and with intermingling roles and responsibilities such that different sectors or institutions are governed in some way by more than one and perhaps all tiers at the same time (Hooghe and Marks 2003). The first type reflects state control and the exertion of authority in a unitary state, while the second type describes the layered system of co-existing levels of authority and overlapping competences (Stephenson 2013). Type 2 can also involve flexible designs of network governance with fluid memberships. Metaphorically speaking, type 1 is like a “Russian doll” and type 2 is like a “marble cake”.

These two types of governance have largely emerged from the global West and may be unduly limiting in explaining and capturing the dynamics of governance reforms in East Asia, where states seek expansion and incursion into the development and implementation of public policies. East Asian states have emerged later and in circumstances different from the western experience; therefore they have concentrated their energies and resources on developing the economy and society in an intensified spirit of self-affirmation. Behind the developmental state lies the formation of state nationalist projects (Lim 2016; Mok 2007). Thus, the third and hybrid type of governance (Table 1) would capture the strong state in the context of East Asia that is characterised by extensive state intervention in, and regulation

58. See www.ehea.info/, accessed 6 September 2019.

and planning of the economy and public policy, and where education, including higher education, has often been used as a key instrument to “retool the productive capacities of the system” and increase legitimacy of state intervention (Gopinathan 2007). The variances of governance models summarised in Table 1 below depict different relationships between the state and the university and thus affect varying levels of institutional autonomy.

Table 1. Developmental states in East Asia and neoliberal governance model

	Traditional government (Type 1) – “Russian doll”	Neoliberal governance model (Type 2) – “Marble cake”	Developmental state in East Asia (hybrid of types 1 and 2)
Structures	State-centred, hierarchical, centralised	Minimal state, international policy agendas, decentralisation of functions	Hybrid of decentralisation and centralisation of functions
System	Central control, detailed oversight exercised through multiple tiers or arm’s-length bodies, bureaucratic mechanisms for allocating resources	Entrepreneurial government, new public management, market mechanisms for allocating resources, networks	Mix of bureaucratic and market mechanisms for allocating resources, distributing authority between tiers and levels, creating quasi-NGOs
Dominant Culture	Keynesian demand management, interventionist state	Neoliberal, managing the network environment, state steers from a distance by making the rules	Interventionist state with neoliberal orientation. State both makes rules and delivers public services

Source: compiled by the authors and adapted from Hooghe and Marks (2003) and from Sutiyo, Pramusinto and Prasjo (2018).

A powerful example of state interventions in determining the level of institutional autonomy is the classification of universities and the allocation of resources. It would be superficial to view this act of classification as only education market creation, similar to the West. This kind of direct state intervention focuses on a few selected universities and even some subject areas that can deliver on the state economic and social development plans. In some countries, such as China, Vietnam, Indonesia and Malaysia, the organic relations between the state and the leaders of these elite universities further demonstrate distinctive interventionist characteristics that may be contradictory to creating conditions for free market competition. For example, university governing boards must always include a member from the ministry of education, or one of the senior leaders of a universities must be a member of the ruling party. As part of the higher education reforms and catching-up strategies of most East Asian countries, the government directly classifies or approves a list of universities (top-tier) and grants them greater autonomy and resources than the universities in other tiers, as described in Table 2. The measurable successes of these world-class universities would further highlight the legitimacy of state interventions.

Table 2. University–state relations in East Asia

Country	Top-tier universities in East Asia	Government-funded projects for “world-class universities”
Japan	<p>There are 13 universities of type A with the potential to be ranked in the global top 100 by 2024.</p> <p>Some 24 innovative universities of type B lead the internationalisation of Japanese society.</p>	<p>Since 2014, the “Top Global University” project has named 37 out of 775 Japanese universities, with a total budget of 7.7 billion yen (USD 77 million).</p> <p>According to the government budgetary plan, each type A university receives 500 million yen (approximately USD 5 million) annually for 10 years. Each type B university receives 200 to 300 million yen annually for 10 years.</p>
China	<p>Project 211 is the Chinese Government’s endeavour aimed at strengthening Chinese higher education institutions and key disciplinary areas as a national priority for the 21st century. Over 100 universities selected for Project 211 since 1995.</p> <p>39 top universities from project 211 were selected for Project 985 since 1998. Project 985 aims at building world-class universities.</p> <p>Launched in 2015, the “Double First Class” initiative aims to develop an increasing number of world-class disciplines alongside a group of world-class universities.</p>	<p>Build research-intensive, world-class universities and world-class disciplines.</p> <p>Project 211, Project 985, the “Double First Class” initiative has invested substantially in the selected universities.</p> <p>The “Double First Class” initiative involves 25 more universities in addition to 112 universities in project 211.</p>

Country	Top-tier universities in East Asia	Government-funded projects for “world-class universities”
The Republic of Korea	Approximately 70 universities benefited from Brain Korea 21 (BK21) research investment in setting up over 500 research centres and groups.	Launched in 1999, “Brain Korea 21” (BK21) seeks to make Korean research universities globally competitive and to produce more high-quality researchers in Korea. “The Brain Korea 21 Program for Leading Universities and Students” (BK21 PLUS) was launched in 2013 to develop a new generation of creative talents that would contribute to a creative economy and ultimately improve the global rankings of Korean HEIs within the top 200 universities globally.
Malaysia	Top five public research universities approved by the government.	The Malaysian Research Universities (MRU) programme since 2007.
Indonesia	Top 11 state research universities selected by the government.	Educational Corporate Legal Entity status since the 2000s.
Singapore	Top six public autonomous universities approved by the Ministry of Education.	Since 2005, the corporatisation of selected universities as not-for-profit companies limited by guarantee. Greater autonomy.
Thailand	Top nine research universities announced by the Office of Higher Education Commission (OHEC).	Thai National Research University (Thai-NRU), large amounts of research funding, greater autonomy and accountability since 2009.
Vietnam	List of 16 key universities (including top two national universities) has been approved by the government since 2004.	HEIs are classified in three tiers: “research”, “applied” and “professional and vocational”. Greater autonomy for the top-tier research universities since 2015.
ASEAN region	ASEAN University Network: 30 leading universities from 10 ASEAN countries, part of the regional “catching-up strategy”.	Nominated, endorsed and sponsored by ASEAN governments since 1995.

Source: the authors' own compilation.

In many East Asian countries in the past two decades, non-regular routes of admission to higher education were introduced. The first route is via the advanced international programmes taught in English and the second route is the granting of access to those students who do not pass the national entrance exams or do not meet the standard selection criteria of the desired universities. Both non-regular routes share a common feature: the students/their parents have to pay higher fees. The first route is often offered by the top-tier universities as part of the internationalisation strategy. The second route is often offered by newly established private or lower-ranked universities. The act of classifying universities creates inequality between universities and between social groups. This leads us to the observation that equal opportunities and social mobility are difficult to achieve, because of the stratified tiers of universities, despite the fact that access to higher education has been widened.

The legacy – or the continuity – of the developmental state has had noticeable effects on university autonomy and academic freedom in East Asia. But state interventions are not always to the detriment of the autonomy of many, especially leading, universities. They have greater autonomy and more resources than they had in the past and more than other universities in the country. To a large extent, the state also plays the role of an arbiter to clean up academic misconduct and corruption on university campuses or as a watchdog of academic integrity, unlike in Europe, where this role is assumed by academic peers. Therefore, what might be seen as interference in university academic affairs in other contexts appears to be necessary in many countries of this region. Hence, state interventions are not always a threat to university authority and academic freedom. On the contrary, the market principles and managerial tools are imposing tougher constraints on them, as analysed in the following section.

NEOLIBERAL REFORMS, UNIVERSITY AUTONOMY AND ACADEMIC FREEDOM

There have been changes to the autonomous status of universities across East Asian countries in the last two decades. These changes are part of larger structural reforms that introduced new university governance structures and a range of managerial mechanisms, such as quality assurance, performance metrics and accountability to measure the core activities of the university, such as education, research and knowledge transfer and community development. Whereas academic freedom concerns the right of academic staff and students to pursue their learning, teaching, research and dissemination of knowledge in accordance with the rigours and ethics of their disciplines without constraint of ideology or dogma (Bergan 2011), institutional autonomy refers to the freedom of the organised academic community, universities and other types of higher education institutions to make decisions on their governance and management so that they can maintain their free and creative environments for research and education (Toba 2008).

Matsui (2017) suggests five essential components of university autonomy in Japan, including (1) autonomy in human resources (employment and dismissal of presidents, academics and other staff); (2) autonomy in facility management (buildings, campuses, infrastructure); (3) autonomy in student management (mechanisms and

quotas of admissions of domestic or international students, traditional or non-traditional students); (4) autonomy in the decisions on the content and methods of research and education; (5) autonomy in university finances. The “selection and concentration” strategy towards the elite universities that can be deduced from Table 2 aims at giving greater autonomy and resources through direct state interventions, but, in practice, the accompanying neoliberal market-oriented principles jeopardise their autonomy.

Curbing institutional autonomy in the name of accountability

A major objective of neoliberal reforms in higher education is instilling competition as a way of improving quality and productivity and responding to market interests of student-customers, domestic and international (Olssen and Peters 2005). On the one hand, greater autonomy would increase the competitiveness of universities, but on the other hand, universities are subject to enforced accountability through various steering mechanisms, such as quality assurance, market principles, performance-related funding, participation of external stakeholders on the governing bodies and public disclosure of institutional performance. The autonomy–accountability nexus requires universities to demonstrate to their external stakeholders, the state, taxpayers, student-customers and employers that they act responsibly (Nokkala and Bacevic 2014).

In the wave of the two mid-term reforms between 2004 and 2009 and between 2010 and 2015 in Japan, all three types of Japanese universities, namely national (86, fully funded by the Ministry of Education), public (90, funded by the Ministry of Internal Affairs) and private (604) underwent major restructuring. The national universities became corporatised⁵⁹ and thus supposedly enjoyed increased autonomy. However, the corporatisation brought about three drastic changes, which in turn constrained their autonomy significantly. First, the university council was established and mainly consisted of external representatives (mainly from the business world) who had the authority to make decisions on all matters of the university, thus weakening the decision-making power of faculty members. Second, the management style changed from bottom-up to top-down under the strengthened authority of the university president. Third, the universities must enter a kind of performance review contract with the Ministry of Education, Culture, Sports, Science and Technology (MEXT) by submitting a six-year plan and their development goals and being held accountable for the implementation outcomes. Future funding from MEXT will be dependent on the measurement of the university’s performance.

The main rationale for the changes is to increase accountability. However, the combination of powerful university presidents, more external members on the governing body and the increased discretionary power of MEXT over the university performance review has substantially reduced institutional autonomy.

59. The corporatisation of university refers to the profound transformation that has reconfigured universities’ governance, missions, core values and the roles of their academics. These changes emerge as mimicking private-sector corporate philosophies and governance structures.

The case of Japan is not an isolated phenomenon, with similar situations observed in other countries, such as Indonesia, Singapore, Thailand and Vietnam (Varghese and Martin 2013). In Indonesia, the governing body, called “the Board of Trustees” (BoT), consisting mainly of external representatives, is the highest management structure of a university. The BoT selects and appoints the university rector, provides overall direction on policy and adopts the strategic plan. It approves the annual activities programme and budget plan of the university. The BoT also carries out daily supervision on behalf of the Ministry of Research, Technology and Higher Education and the Ministry of Finance because the BoT’s members are representatives from the ministries. Similarly, the law on higher education in Vietnam requires all universities and colleges to establish a governing council, which comprises, among others, representatives from the line management agency. The majority of higher education institutions in Vietnam are line managed by the Ministry of Education and Training (MOET).

Greater institutional autonomy does not always ensure academic freedom

Greater authority is also granted to universities to recruit and manage administrative and academic staff, who become university employees instead of having civil servant status, as in the case of China, Indonesia, Japan, Thailand and Vietnam. In Japan, the consequences of different waves of neoliberal reform are that more faculty members are hired under competitive grants with fixed-term contracts. The proportion of permanent academic staff aged under 40 decreased from 29% in 2004 to 23% in 2016. In Indonesia, private higher education institutions in particular have a large number of hourly paid teaching staff. Such temporary employment causes uncertainty and a sense of precariousness for academics, who suffer from an inability to settle down either financially or geographically by not having a clear career path. This situation has a negative impact on their academic work and thus constrains their academic freedom. In Thailand, academics on the tenure track do not have a guaranteed job even if they fulfil the requirements of research output to move up the ladder from assistant professor (5 years) to associate professor (10-15 years). They are often burned out due to heavy teaching workloads, thus deprived of the energy to conduct research and publish.

In Indonesia, as part of staff autonomy, since 2012 each university has been able to issue a National Lecturer Identification Number (NIDN) and Special Lecturer Identification Number (NIDK) (ID card) to the new academic staff members they employ. With a unique number, the ID card has not only the symbolic value of a profession and social status of an academic, but it also brings other privileges and material benefits to the holder, such as higher salaries, access to research funding, career development or scholarships to study overseas. “The lecturer ID card is the key to everything. Outside the gate you are excluded from many things” (five academics at private universities in Indonesia, focus group discussion in December 2018).

According to the government regulations, the card is only given to a permanent lecturer who has a tenure-track, full-time employment contract with a specific

institution. The card was originally introduced as a management tool for quality assurance when assessing academic capacity and accrediting new programmes offered by private universities. Since all ID cards are registered centrally, private universities cannot “borrow” or sign shadow contracts with academics from other universities to pass the accreditation exercise. Individuals do not risk losing their ID cards by “lending” their names and reputation to another institution.

However, the card has also been used for other purposes. In reality, universities, while exercising their autonomous right for staff, use it as a commercial tool to steer the academic labour market, either to attract an early-career academic or as a censoring tool or even a sanctioning measure for existing staff. The card can be taken away from individual academics depending on the performance required, such as teaching obligations, research, publications and community services. The move of an academic from one university to another would require approval from both universities’ rectors before the ID details can be changed and updated in the central database.

This ID card can be seen as a professional licence, but also a “privilege on loan”, which in many cases curtails an individual’s academic freedom. Therefore, “greater institutional autonomy” obviously does not always guarantee academic freedom at the individual level.

Curbing academic freedom in the name of quality assurance

In the name of quality assurance and accountability, universities in Asia have developed different practices that in many ways jeopardise academic freedom. In some countries, pre-arranged and surprise classroom observations at undergraduate and master’s classes become a norm, regardless of the latent resentment of academics.

Academic: ...They randomly observe classes at all levels. Today I had an observer in my class. It was a surprise observation for quality of teaching...

Dang: What do you feel about not being informed?

Academic: That means I and students can’t be late [by] five minutes [smile]. Well, of course, I would rather like not to be observed at all, but if it is the thing for everyone, then that’s it.

Dang: If a colleague (not that specific group of people who has the task to observe classes) asks you to sit in your class, do you agree?

Academic: No, I don’t allow.

(An expat academic at a Chinese public university in Hangzhou. Interview in November 2018)

Another example of institutional interventions in the name of accountability is that academics in China, Malaysia and Indonesia are required to provide an explanation to their deans or other authorities in and outside the university if they give a low mark or fail a student.

“...the office changed the grade I gave to my students during my absence [summer holiday] and informed me later”. (An expat academic at a Malaysian public university, interview in November 2018)

“... normally they don’t [change grades] but if I fail any students I must explain to the dean or higher-level management, and sometimes to parents as well”. (An academic at a Chinese public university in Beijing, interview in November 2018)

Supporters of neoliberal reforms in higher education adopt the definition of students as customers and encourage students to see themselves as consumers. By all appearances, a significant share of students (and their parents) are susceptible to this consumer ideology and its associated short-term benefits. The marketisation of higher education and the promotion of education as a positional good and the spread of a consumerist ethos lead to pressure to raise student grades. For example, student evaluation of teaching was found to contribute to grade inflation as universities and departments seek to improve students’ level of satisfaction with the university and course. Individual academics are trapped under such pressure that exerts a tough curb on their academic freedom. The grade inflation phenomenon is not exclusive to East Asia, it happens in other parts of the world too (Bachan 2017; Stroebe 2016).

Curbing academic freedom in the name of internationalisation

East Asia is not only sending their students overseas but many countries in this region, such as China, Japan, the Republic of Korea, Singapore and Malaysia, have also begun to actively promote themselves as study destinations. The increase in domestic student enrolments thanks to higher educational attainments at school and the desire to attract international students has resulted in a need for English-taught programmes. This internationalisation policy together with the above-mentioned “World-class university” projects of various East Asian governments have made English for education and research a centrepiece of macro-level language policy and planning over the past quarter of a century. English is clearly not only a linguistic change but has been viewed as a geopolitical, economic and ideological project that is impacting the university eco-system broadly (Walkinshaw, Fenton-Smith and Humphreys 2017). The macro-level policy has a laudable aim to increase the range and quality of educational offerings and to enhance English-language proficiency of global citizens and workforce. Nevertheless, this becomes problematic when presumed advantages and short-term financial benefit are prioritised at the institutional level over educational benefits and staff development support. The rise of the geopolitical status of English as a lingua franca has both positive and negative impacts on institutional autonomy and academic freedom in particular pedagogical, political, economic and social contexts. For example, in China, Indonesia, Vietnam and Thailand, mastery of English has become a requirement for many academics. Not only are senior academics required to publish research papers in English in international peer-review journals and teach in English but also junior researchers, namely PhD candidates, must publish at least two papers and one of them needs to be published in a Scopus-indexed journal⁶⁰ in order to graduate (various interviews from May 2018 to May 2019).

60. Scopus, operated by Elsevier, is a collection of bibliographic databases of quality-curated journals and articles from 24 600 active titles and 5 000 publishers. Using sophisticated tools and analytics, Scopus generates precise citation results and detailed researcher profiles. They are Scopus-indexed. See www.elsevier.com/solutions/scopus.

The Global 30 Project (2009-13) – a Japanese government initiative that aims to upgrade a number of existing universities to form a select hub of elite universities for receiving international students – had funded 35 degree programmes in English across 13 national universities, and the Global Talent project (*Tobitate!*, Study Abroad Japan) focusing on domestic students had funded 42 programmes in English as of 2013. The elite institutions need to promote English as an indispensable tool for international market competitiveness, but many of them are faced with staffing issues, partly related to increased workloads and the fact that academic staff may be temporarily employed under fixed-term contracts funded by short-term external grants, as mentioned earlier in this chapter. In some cases, language teachers were asked to take on content classes (Moore 2017). The Abe Administration funds the gigantic “Top Global Universities”⁶¹ (2014-24) project and MEXT stipulates that a common condition for funding is that the universities increase both the ratio of foreign faculty and students and develop English syllabuses (MEXT 2019). Recently, Japan’s National Centre for University Entrance Examinations (NCUEE) confirmed TOEFL iBT⁶² tests as fulfilling all requirements for participation in the English score system for university entrance examinations (ETS 2018). The fact that English, a language which is considered unnecessary by the vast majority of Japanese, has become the medium of instruction for a growing number of university courses is an indication of how strong internationalisation pressure has become, and for many students and academics, learning and teaching in English are not by choice. Similarly, in the Republic of Korea, China and many South-East Asian countries, English-taught programmes have been increasing at universities while the funding and supporting mechanisms are not always in place.

CONCLUSIONS

Through analyses of practices and experiences in East Asia, this chapter has sought to contribute to the global conversation about institutional autonomy and academic freedom. The understanding and practices of university autonomy and academic freedom vary across the world due to variations in history, political cultures, knowledge-production traditions, educational cultures and state–university relations. Universities in East Asia tend to have a closer relationship with the state. This type of state is characterised as the developmental state, which exerts its interventions in the key socio-economic spheres and builds a determined developmental elite that includes a “selection and concentration” strategy for elite universities. The developmental states in East Asia have gained their legitimacy from the ability to promote and sustain development. Many universities and individual scholars in this region are inclined to serve and support the state’s interests in many ways, including cultivating scholar-officials for leadership and catering to the national interest in socio-economic development. Despite the criticism and protest against government policies, both academics and universities are still more receptive and responsive to government-led initiatives and interventions than their counterparts in Europe, such as to the “world-class university” projects, to realise their national “catching-up strategy”

61. <https://tgu.mext.go.jp/en/index.html>, accessed 9 September 2019.

62. Test of English as a Foreign Language – internet Based test

and development goals. Given the expansion, both quantitatively and qualitatively, of the higher education sector in East Asia, the interventionist state in this region is not the only or the most dangerous threat to university autonomy and academic freedom.

The globalised neoliberal higher education reforms impose tougher constraints on university autonomy and individual academic freedom. As the state grants universities greater autonomy, the threat to academic freedom may not come so much from the state as from the institution itself and its managerial metrics. The former collegial governance is being replaced by the corporate managerial governance model. The interests of external stakeholders are becoming more important to the governing bodies and executives of the university; the collegial nature of the university is being devalued. In other words, the strengthening of university autonomy can lead to the weakening of academic freedom, as shown in this chapter. Institutional autonomy and academic freedom in East Asia are also being curbed partly due to the fact that universities and academic communities embrace or uncritically adopt neoliberal reforms.

If universities in this region are highly responsible for their own survival and development, and are willing to take charge of their own affairs, it would be timely for them – the universities, academics, staff and students and their associations – to alter current practices and rethink the concepts of university autonomy and academic freedom by striking the balance between a universal component and a culturally and nationally variant component. The terms could be grasped at the conceptual level based on universal values as long as the aim is not to seek watertight definitions.

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Academic freedom in the European Union: legalities and realities

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ABSTRACT

This chapter examines the European genesis and heritage of academic freedom and then, utilising comparable legal information and empirical data from over 4 000 staff in universities within the EU, a comparative assessment is undertaken of the *de jure* protection for, and the *de facto* levels of, academic freedom enjoyed by academic staff in the EU. The *de jure* analysis examines the legal and constitutional protection for academic freedom. The *de facto* analysis uses survey data to assess the current levels of, and changes to, the two substantive elements (freedom to teach and freedom to research) and three supportive components (autonomy, governance and tenure) of academic freedom. The study reveals that although many states protect academic freedom in both their constitutions and in national legislation, the level of *de jure* constitutional and legislative protection varies considerably between EU nations. In terms of day-to-day *de facto* protection for academic freedom, the majority of EU university staff do not believe that there is a generally high level of protection for academic freedom and that, moreover, the level of protection has declined, both in general, and with respect to the two substantive elements and three supportive components of academic freedom. The decline in respect for academic freedom has led to staff reporting that they have been subjected to bullying, self-censorship and psychological pressure. Additionally, the data show that university staff have relatively low levels of knowledge about institutional protection for academic freedom and would welcome additional information on the topic.

Keywords: academic freedom; autonomy; tenure; Europe.

INTRODUCTION – THE EUROPEAN GENESIS OF ACADEMIC FREEDOM

The creation of universities during the High Middle Ages (circa 1000-1250) in Europe marked both the emergence of academic freedom as a scholarly liberty and the commencement of arguments as to its limits, necessity and purpose. As Súilleabháin (2004: 18) relates, academic staff from the very first university, established at Bologna in 1088, at times chose to withdraw to the towns of Arezzo, Padua, Sienna and Vincenza, following attempts by the city authorities to control their affairs, and the university held the city of Bologna to ransom until their demands for freedom for the *studium generale* were met. Such events

were repeated over successive centuries, following disagreements over institutional autonomy and academic freedom between universities and monarchs, the Papacy and local municipal authorities (and also with fellow professors). For example, academics left Paris to go to Oxford and, in time, in order to take refuge from hostile townsmen in Oxford, some academics moved to Cambridge and established the university there in 1209. Some 400 years later, there was a further migration from Cambridge (United Kingdom) to Cambridge, Massachusetts, to found Harvard College, an institution, that was, as Rudy (1951: 156) notes, “intended by its founders to be a New World version of Emmanuel College, Cambridge”. Hence, the conceptual foundations of academic freedom (conceived of as a particular liberty given uniquely to university scholars) emerged during the 11th and 12th centuries from within the nascent universities and nations of Europe, which were the cradle of the modern idea of academic freedom within a research university. However, subsequent centuries witnessed radical changes in the status and function of European universities and the consequent status of academic freedom.

In France, in March 1793, six months after the declaration of the First French Republic, French universities had their endowments nationalised, and were then further suppressed by government decree in September. The social and political earthquake engendered by the French Revolution was felt elsewhere across Europe, following the subsequent rise of Napoleon in 1804. French rule was accompanied by state takeovers of university endowments, curricula revisions and closures of some prominent universities. Indeed Ben-David and Zloczower have noted (1962: 45) that the

Reformers of the “Enlightenment” advocated the abolition of the universities as useless remnants of past tradition and established in their stead specialised schools for the training of professional people and academies for the advancement of science and learning.

For example, the University of Leuven was abolished by decree of the Département of the Dyle on 25 October 1797, and the University of Wittenberg was closed in 1813. Indeed, Brockliss (1997) reports that in 1789 Europe had 143 universities but by 1815 there were only 83.

However, paradoxically, the defeat of Prussia by Napoleon precipitated a reappraisal of the functions of universities, and the necessary freedoms afforded to academics. Following the defeat of Frederick William III of Prussia by Napoleon at the battle at Jena-Auerstedt in October 1806, Wilhelm von Humboldt, a Prussian civil servant, was requested to come to Berlin and play a leading role in the regeneration of the Prussian State (Hohendorf 1993). Plans to set up a university in Berlin had already existed since the beginning of the Prussian reform era of 1807-19, but their implementation was undertaken by Wilhelm von Humboldt. His model for Berlin University was characterised by the unity of teaching and research, undertaken within a climate of academic freedom. Within German universities built on Humboldtian principles “academic freedom embraced three interrelated principles: *Lehrfreiheit*, *Lernfreiheit* and *Freiheit der Wissenschaft*” (Metzger 1988: 1269).

According to Metzger (1988: 1269-1270) *Lehrfreiheit* encompassed:

the statutory right of full and associate professors, who were salaried civil servants, to discharge their professional duties outside the chain of command that encompassed other government officials. It allowed them to decide on the content of their lectures and to publish the findings of their research without seeking prior ministerial or ecclesiastical approval or fearing state or church reproof.

The second element, *Lernfreiheit*, referred to “learning freedom”. As Metzger further relates, this right amounted to the absence of university control “over the students’ course of study save that which they needed to prepare them for state professional examinations or to qualify them for an academic teaching license” and the consequent ability of students “liberated from course grades and classroom roll calls, free to move from place to place sampling academic wares”. The final aspect of academic freedom, *Freiheit der Wissenschaft*, related to academic self-governance and institutional autonomy under which, as Horwitz (2005: 475) explains, “universities were entitled to make their own decisions on internal matters under the direction of the senior faculty”. Hence, the concept of academic self-governance inherent in *Freiheit der Wissenschaft* was a forerunner of the institutional autonomy component of academic freedom.

The centrality of Humboldt’s contribution has been challenged by Nybom (2003: 144) who notes that

the intellectual core and institutional rationale of the Humboldtian university concept rested on ... ideological building blocks which were ... integral dimensions of German idealistic philosophy, and, consequently, not Wilhelm von Humboldt’s own original intellectual inventions.

Similarly, Anderson (2000: 12) argues that “what happened at the end of the nineteenth century was not so much the triumph of the Humboldtian ideal as a new synthesis in which elements of both Enlightenment and Humboldtian traditions were merged”. However, Howard (2006: 4) makes the point that even

granting the complex *antecedents* behind all historical beginnings, few would nevertheless gainsay that it was most notably in post-revolutionary Prussia, beginning with the dramatic founding of the University of Berlin in 1810, that the modern university first appeared on the historical stage.

Similarly, Jones (2007: 5) argues that “this was the idea of the university which, more than any other, transformed the functioning of learning and higher education in nineteenth-century Europe”. In sum, as Goldstein (1976: 1299) states:

the modern development of the doctrine of academic freedom is largely derived from the nineteenth century German concepts of *Lehrfreiheit* and *Lernfreiheit*, which are associated with the reforms at the University of Berlin by Wilhelm von Humboldt, which subsequently provided the template for the development of academic freedom, initially in the European states and subsequently across the globe.

Despite the genesis of academic freedom within universities in Europe and its subsequent Humboldtian development, and the realisation that the concept is integral to the successful running of universities and the research and teaching activities of academics, its legal (*de jure*) and normative (*de facto*) status has rarely attracted the attention of academic research, either within individual nations or

across Europe. This is surprising given that the continuing growth in the number of Bologna Process signatory states (and the consequent expansion of the European Higher Education Area) has led to arguments (by Pechar and others) that “the Bologna architecture is not compatible with this [Humboldtian] concept of freedom” (Pechar 2012: 627). Continuing disagreements between universities, national governments and the EU about the rationale for, limits to and benefits of academic freedom have made it a contentious concept. Nevertheless, despite this growing contention, as Moens (1991: 58). points out, “academic freedom continues to be a commonly used but misunderstood concept ... only a minority of academics bother to explain what the concept of academic freedom means to them or even know what the concept really is”.

DEFINING ACADEMIC FREEDOM

Part of the dearth of research into academic freedom within the EU may relate to the nebulous and varied nature of the concept. Åkerlind and Kayrooz (2003: 328) point out that “there is little consensus between parties as to what academic freedom actually means ... the concept is open to a range of interpretations and has been used at times to support conflicting causes and positions”. Somewhat surprisingly, perhaps, given its apparent importance, there is no universally accepted definition of academic freedom, nor is it protected, as is the case for freedom of expression, in any internationally legally binding agreement, such as any United Nations human rights treaty. In consequence, perhaps, definitions of academic freedom have been provided in a wealth of NGO and intergovernmental international declarations including the following: the Magna Charta Observatory’s (1988) Magna Charta Universitatum; the World University Service’s (1988) Lima Declaration on Academic Freedom and the Autonomy of Institutions of Higher Education; the CODESRIA (1990) Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics; UNESCO’s (1997) Recommendation on the Status of Higher Education Teaching Personnel; and the Council of Europe’s Parliamentary Assembly Recommendation 1762 (2006) on academic freedom and university autonomy.

From these declarations, it is possible to identify the concept’s commonly agreed substantive and supportive elements that are relevant to an appraisal of academic freedom in the EU. Despite national variations, academic freedom can be seen to have two substantive and three supportive elements. The substantive elements are the freedom to teach and to research. The freedom to teach habitually includes the right to determine:

- ▶ what shall be taught;
- ▶ how it shall be taught;
- ▶ who shall be allowed to study;
- ▶ who shall teach;
- ▶ how students’ learning may be assessed and graded;
- ▶ and who shall receive academic awards.

The freedom to research normally encompasses the right to determine:

- ▶ what shall be researched;
- ▶ how it shall be researched;
- ▶ who shall research, and with whom;
- ▶ for what purpose research shall be pursued;
- ▶ the methods by which, and avenues through which, research findings shall be disseminated.

The supportive elements of academic freedom are tenure, self-governance and autonomy (both individual and institutional). Tenure is a process whereby academic staff with the requisite high level of competence in research and teaching (adjudged by a rigorous appraisal of their performance during a probationary period by their peers) are given protection from dismissal. Where tenured staff do not meet minimum levels of competence or professional standards of conduct in their teaching and research, their tenure can be revoked. To obtain tenure, the probationer needs to demonstrate competence; for its revocation, the institution needs to demonstrate due cause. Self-governance consists of the right of academic staff to have the determinant voice and a prominent role in university decision making and fulfil their collegial obligations by being able to appoint, from among their number and beyond, people into positions of managerial authority, and hold them to periodic account by agreed democratic processes in a professional manner. Protocols, however, must exist to guard against filibustering, policy gridlock and professorial oligarchy.

Individual autonomy enables academics to act as free agents in exercising their academic freedom rights, with respect to their professional activities of teaching, research and shared governance, without interference by internal or external individuals or bodies. Institutional autonomy ensures that universities, acting as corporate bodies, are able to make decisions concerning their strategic academic priorities and day-to-day functions of teaching and research, without interference from extra-mural entities and individuals, including local, national and international governmental actors, religious foundations, national and international NGOs and private companies. When institutional autonomy is compromised, and external bodies determine universities' policies, the exercise of individual autonomy in shared governance is circumscribed and academic freedom nullified.

These three supportive elements acting in unison are necessary for academic freedom, but each in its own right is insufficient to guarantee academic freedom. Hence single elements are less individually important than the fact that they mesh together. Thus, if one of the mutually supportive elements falters, it undermines the other two, and thereby weakens substantive academic freedom for research and teaching. For example, if tenure is lacking, then academics may not be able to enjoy autonomy in participating in shared governance and making objective decisions on institutional research priorities or subject teaching methods, for fear of losing their jobs. These constituent elements of academic freedom (the rights to teach and research, and self-governance, tenure and autonomy) form the analytical basis for this chapter.

DE JURE PROTECTION OF ACADEMIC FREEDOM

When examining the *de jure* protection of academic freedom in the EU states, it is evident that there is considerable cross-national variation. However, as Table 1 shows, all of the EU states (except the United Kingdom), expressly protect freedom of speech in their constitutions, and thereby provide indirect protection of academic freedom. Additionally, 20 of the 28 EU⁶³ states also provide some explicit protection for different elements of academic freedom in their constitutions. For example, Article 20 of the Constitution of Spain states explicitly “The following rights are recognised and protected: c) the right to academic freedom”. Similarly, the Lithuanian constitution provides protection for the two substantive elements of academic freedom of teaching and research, but also provides constitutional protection for the supportive element of institutional autonomy.

Table 1. Constitutional protection of freedom of speech and academic freedom

Country	Is freedom of speech/expression protected in the constitution?	Are any elements of academic freedom specifically protected in the constitution?
Austria	Yes	Yes – research and teaching and autonomy
Belgium	Yes	No
Bulgaria	Yes	Yes – autonomy and research
Croatia	Yes	Yes – autonomy and research
Cyprus	Yes	No
Czech Republic	Yes	Yes – freedom of research and artistic creation
Denmark	Yes	No
Estonia	Yes	Yes – academic freedom and institutional autonomy
Finland	Yes	Yes – freedom of research and teaching, university autonomy
France	Yes	No protection
Germany	Yes	Yes – freedom of research and teaching
Greece	Yes	Yes – freedom of teaching and research, autonomy, tenure
Hungary	Yes	Yes – freedom of research and teaching
Ireland	Yes	No protection
Italy	Yes	Yes – freedom of research and teaching, autonomy
Latvia	Yes	Yes – freedom of scientific research, artistic and other creative activity
Lithuania	Yes	Yes – freedom of research and teaching, university autonomy
Luxembourg	Yes	No

63. At the time of writing, the outcome of the Brexit debate was uncertain.

Country	Is freedom of speech/expression protected in the constitution?	Are any elements of academic freedom specifically protected in the constitution?
Malta	Yes	No protection
Netherlands	Yes	No protection
Poland	Yes	Yes – freedom of research and teaching, autonomy
Portugal	Yes	Yes – freedom of research and teaching, autonomy
Romania	Yes	Yes – university autonomy
Slovak Republic	Yes	Yes – freedom of research and teaching
Slovenia	Yes	Yes – freedom of research and university autonomy
Spain	Yes	Yes – academic freedom mentioned specifically, autonomy
Sweden	No	Yes – freedom of research is protected
United Kingdom	No protection	No protection

Hence, all the EU states have express protection for freedom of speech in their constitutional documents (except the United Kingdom); and the majority also have some form of (indirect or direct) constitutional protection for academic freedom. However, as well as providing protection for academic freedom within their constitutions (which is frequently couched in general terms), most of the EU states have specific higher education laws that provide detailed information on how their universities are to be run. For example, the Finnish Universities Law of 2009 has 93 sections covering, *inter alia*, mission; institutional autonomy; the university community; legal capacity of universities; freedom of research; arts and teaching; degrees and the degree structure; languages of instruction; organs of a university; board of the public university; appointment composition; functions and terms of office of the university board; election; powers and duty of care of the rector of a university; composition, functions and powers of the collegiate body of a university; university regulations and rules; administrative procedure and confidentiality; employment relations of personnel; duties; appointment and title of professor; liability under criminal law. Such laws usually contain an explicit reference to academic freedom. In Ireland, for example, the 1997 Universities Act states:

A member of the academic staff of a university shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the university, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions.

To assess the legislative protection for both substantive and supportive elements of academic freedom in the EU, the national legislation relating to universities and higher education in each state was collected and scrutinised. The results of this evaluatory process are shown in Table 2.

Table 2: Legislative protection for freedom of teaching and research

Country	Is freedom to teach protected in legislation?	Is freedom to research protected in legislation?
Austria	Yes – “Freedom of sciences and their teaching and freedom of scientific and artistic activity, the dissemination of the arts and their teaching; ... freedom of study”	
Belgium	Yes – “Members of a higher education institution shall enjoy academic freedom”	Yes – “Researchers must ... enjoy a very wide freedom to carry out research”
Bulgaria	Yes – “Academic staff ... have the right to: develop and teach the study content of their discipline freely”	Yes – “Academic staff ... have the right: freely to conduct ... scientific research and to publish the results”
Croatia	Yes – “Academic freedom is enjoyed by all members of the academic community”	
Cyprus	Yes – “The advancement of science, knowledge, learning and education by teaching and research, and in particular the safeguarding of academic freedom”	
Czech Republic	Yes – “Freedom of teaching ... openness to different scientific and scholarly views”	Yes – “Freedom of scholarly, scientific, research activities as well as publication of the results”
Denmark	No	Yes – “The university must defend ... the freedom of research”
Estonia	No	No
Finland	Yes – “At the universities there is freedom of research, art and teaching”	
France	Yes – “Lecturers, teachers and researchers enjoy full independence ... in the exercise of their functions of teaching and their research activities”	
Germany	Yes – “Freedom of art and science and of research, teaching and study”	
Greece	Yes – “In universities, academic freedom in research and teaching ... shall be safeguarded”	
Hungary	Yes – “Lecturers ... shall be entitled to the right to perform educational activities in accordance with their world view, ideology and values”	
Ireland	Yes – “Academic staff of a university shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the university”	
Italy	Yes – “The freedom of teaching for teachers”	Yes – “The freedom of research of professors”

Country	Is freedom to teach protected in legislation?	Is freedom to research protected in legislation?
Latvia	Yes – "Institutions of higher education shall guarantee the academic freedom of academic staff"	Yes – "The freedom of studies, research work and artistic creation shall be ensured"
Lithuania	Yes – "Higher education shall be based on ... academic freedom and autonomy"	Yes – "Research shall be based on ... freedom of creation and research"
Luxembourg	Yes – "In the exercise of their teaching and research duties, members of the University shall enjoy academic freedom"	
Malta	No	No
Netherlands	Yes – "At institutions, academic freedom will be respected"	
Poland	Yes – "Higher education institutions shall be governed by the principles of academic freedom in teaching, scientific research"	
Portugal	Yes – "Autonomy ... affording both teachers and students intellectual freedom in teaching and learning processes"	Yes – "In higher education institutions the freedom of research is ensured"
Romania	Yes – "The academic freedom of the members of the university community is guaranteed ... they have the freedom of teaching, research and creation"	
Slovak Republic	Yes – "Academic freedoms and academic rights shall be guaranteed (b) freedom of teaching"	Yes – "Academic freedoms and academic rights shall be guaranteed (a) freedom of scientific investigation, research"
Slovenia	Yes – "Higher education teachers ... independently develop those areas of science, art ... and care for the transfer of this knowledge"	Yes – "A university shall ... ensure the following: freedom of research, artistic production and knowledge mediation"
Spain	Yes – "Teaching is [the] duty of teachers ... which they exercise with academic freedom"	Yes – "Freedom of research in universities is recognised and guaranteed"
Sweden	No	Yes – "Research issues may be freely selected ... and research results may be freely published"
United Kingdom	Yes – "To ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions"	

As Table 2 shows, two countries – Estonia and Malta – have no protection for academic freedom for teaching and research in their national legislation, and in Malta there is also no protection for academic freedom in the constitution. At the other end of the scale, in Spain academic freedom is mentioned explicitly in the constitution and the legislation gives further protection for the individual functions of teaching and research, which further strengthens the legal protection for academic freedom. Some 21 countries offer specific legislative protection for research – for example the 2011 Law of National Education in Romania states that: “in higher education institutions the freedom of research is ensured in terms of setting the subjects, choosing the methods and procedures and capitalising results, in compliance with the law”. Both Bulgaria and the Slovak Republic offer specific legislative protection for teaching and research activities, along with direct protection via their constitutions. Some 11 countries offer direct protection for academic freedom in teaching – for example the Czech Higher Education Act guarantees “freedom of teaching, in particular with regard to openness to different scientific and scholarly views, scientific and research methods and artistic movements”. Belgium and Croatia are unusual, as they offer some legislative protection, but refer back to their constitutions, which are superior legal instruments for the protection of academic freedom. Similarly, Sweden is unusual as it provides legal protection for research but has no mention of academic freedom for teaching in either the constitution or the law.

This analysis demonstrates that in most EU states, protection of academic freedom is an integral part of a comprehensive higher education act which covers all aspects of the workings of national higher education systems and their constituent elements. The Finnish Universities Act of 2009 has already been mentioned, but the Spanish Ley Orgánica of 2001 is similarly comprehensive and explicit: Article 33 states that “Teaching is a right and a duty of teachers in universities, which they exercise with academic freedom”. Article 39 states that “Freedom of research in universities is recognised and guaranteed”. The Ley has 89 articles covering, *inter alia*, university functions; university autonomy, recognition and legal status of universities; creation of university departments; appointment, composition, functions and terms of office of the Government Council; the appointment of the Rector, the Vice-rectors, the Deans of Faculty and Directors of Schools; appointment, composition, functions and terms of office of the University Senate; quality assurance mechanisms and university accreditation; the appointment, functions and title of professor.

Having established that, although there is considerable variation, most of the EU states have some degree of both constitutional and legislative protection of academic freedom, this study will now turn to a consideration to the realities of *de facto* academic freedom.

DE FACTO EXPERIENCES OF ACADEMIC FREEDOM

In order to assess the relative health of *de facto* academic freedom among the EU countries, data from the EU states were gathered via an online survey, created following research funded by an EU Marie Curie Intra-European Fellowship. A printed letter was mailed to the rector of each university in all the EU states, explaining the

survey’s rationale, and including the URL to access the online survey, with a request that an e-mail be sent to all academic staff at their institution, inviting them to complete the survey. Additionally, Education International, a global federation of teachers’ trade unions, to which most EU higher educational professional associations belong, sent a letter to all its higher education members, explaining the purpose of the study, indicating the URL for the online survey, and asking for an e-mail to be sent to all academic members of their respective organisations, with a request to complete the survey. Finally, via the websites of the largest universities in each EU country, e-mail addresses of all academic staff were located and used to send a personal invitation to participate in the survey. The total number of responses to the European survey exceeded 4 500, although some respondents did not complete all elements of the survey. A sample of this size is sufficiently large to provide an accurate snapshot of the state of academic freedom in the majority of EU states.

Table 3 shows the results obtained when respondents were asked to score the level of protection of academic freedom within their institution on a scale of 1 (very low) to 9 (very high). As can be seen, the majority of the responses are tilted towards the high level of the scale, indeed, the mean scale score for EU respondents was 5.6 out of 9, just above the central scale point. This is more apparent when the scores are truncated into three groups – “Low” (comprising categories 1, 2, 3) equals 17.4%; “Average” (categories 4, 5, 6) equals 43.1% and “High” (categories 7, 8, 9) equals 39.5%. However, the fact that roughly one respondent in six believed that a low level of protection of academic freedom existed in their university, and that only four respondents in every 10 thought a high level existed in their universities, is a cause for concern.

Table 3: Level of protection for academic freedom in respondents’ higher education institutions

Response	%
1 = Very low level of protection	4.2
2	5.4
3	7.8
4	8.1
5 = Average level of protection	21.9
6	13.1
7	19.0
8	13.7
9 = Very high level of protection	6.8
All (n = 4 668)	100

To examine the situation more thoroughly, respondents were asked to consider whether protection of academic freedom in their department and university had fallen, remained constant or risen in recent years. As can be seen from Table 4, a quarter of EU respondents were unable to say, or did not know, whether the level

of protection of academic freedom had changed. However, a much greater proportion (44.7%) of EU respondents thought that protection of academic freedom had diminished or greatly diminished than those who thought that it had increased, or greatly increased (5.6%). In fact, less than one respondent in 100 thought that the protection of academic freedom had greatly increased. These figures are indicative of a lowering of protection of academic freedom across all EU states.

Table 4: Changes in the protection of academic freedom in recent years

Response	%
I don't know/cannot say	25.3
Greatly diminished	11.7
Diminished	33.0
Remained unchanged	24.4
Increased	5.0
Greatly increased	0.6
All (n = 4 698)	100

Having considered opinions on the general protection of academic freedom, the individual elements of academic freedom will now be examined, starting with the substantive elements of freedom for teaching and research. Table 5 details responses that participants gave in answer to the statement “academic freedom for teaching has declined in recent years”. As can be seen, one third of respondents neither agreed nor disagreed with the statement and can be assumed to have thought that the level of academic freedom for teaching had remained unchanged in recent years. Of the remaining respondents, 27.3% agreed that academic freedom for teaching had declined, while a slightly larger proportion (39.1%) disagreed or strongly disagreed with the statement.

Table 5: Individual academic freedom for teaching has declined in my institution in recent years

Response	% EU
Strongly agree	6.6
Agree	20.7
Neither agree nor disagree	33.6
Disagree	30.0
Strongly disagree	9.1
All (n = 4 579)	100

The situation with respect to academic freedom for research shows a very similar pattern, as Table 6, below, demonstrates. Some 31% of respondents agreed/strongly agreed that academic freedom for research had declined, 32% neither agreed nor disagreed that academic freedom had declined, while 36.6% disagreed

or strongly disagreed with the statement. Such data on academic freedom for teaching and research do not support the view that the concept is in a very healthy state within the EU.

Table 6: Individual academic freedom for research has declined in my institution in recent years

Response	% EU
Strongly agree	7.2
Agree	24.2
Neither agree nor disagree	32.0
Disagree	27.8
Strongly disagree	8.8
All (n = 4 576)	100

Turning to the supportive elements of academic freedom, the focus concentrates on autonomy, governance and tenure. Table 7 shows that 43.5% of EU respondents agreed/strongly agreed that institutional autonomy had declined, while only 24.5% disagreed/disagreed strongly, with the remaining 32% being unsure.

Table 7: Institutional autonomy has declined in my institution in recent years

Response	%
Strongly agree	11.9
Agree	31.6
Neither agree nor disagree	32.0
Disagree	19.4
Strongly disagree	5.1
All (n = 4 570)	100

Moreover, Table 8 reveals that the situation was similar with respect to self-governance, in that 42.8% agreed/strongly agreed that this element of academic freedom had declined, whereas 24.3% thought to the contrary and one third (32.9%) did not voice a definitive opinion.

Table 8: Self-governance has declined in my institution in recent years

Response	% EU
Strongly agree	16.0
Agree	26.8
Neither agree nor disagree	32.9
Disagree	18.9
Strongly disagree	5.4
All (n = 4 571)	100

The results for the final supportive element of academic freedom, employment security (tenure) are given in Table 9 below. The table shows that 54% of respondents agreed/strongly agreed tenure had declined, while less than half this proportion (22%) thought otherwise, with 23.9% declining to give a definitive response.

Table 9: Employment protection for academic staff in my institution has declined in recent years

Response	% EU
Strongly agree	24.2
Agree	29.8
Neither agree nor disagree	23.9
Disagree	17.4
Strongly disagree	4.6
All (n = 4 570)	100

Table 10 summarises the data with respect to the different elements of academic freedom. As can be seen, the percentage of staff agreeing or strongly agreeing that the protection of academic freedom has fallen for the two substantive elements, teaching and research, is smaller than the percentage of staff who disagreed/strongly disagreed that academic freedom has declined. The situation is somewhat different for the three supportive elements. In every instance, the percentage of respondents who agreed/strongly agreed that autonomy, self-governance and tenure had declined is greater than the percentage who disagreed/strongly disagreed. This is particularly striking with respect to tenure, where 54% agreed/strongly agreed that employment protection had declined, compared to only 22% who believed that tenure had not declined.

Table 10: Summary table

“Freedom has declined in ... ”	Teaching	Research	Autonomy	Governance	Tenure
% Strongly agree/agree	27.3	31.0	43.5	42.8	54.0
% Neither agree nor disagree	33.6	32.0	32.0	32.9	23.9
% Strongly disagree/disagree	39.1	36.6	36.6	24.3	22.0

However, another feature that is particularly noticeable from all of the tables, and worthy of investigation, is the percentage of academics who are unable or unwilling to give a definitive response. Table 11 shows that nearly two thirds of all respondents did not know whether the university in which they worked had an official policy document on academic freedom. In consequence, it is not surprising that, as Table 12 shows, three quarters of respondents stated that they would welcome additional information on the constitutional/legislative protection of academic freedom in their nation. Clearly, it is difficult for academics to protect their

academic freedom rights if they are unclear as to what protection exists for such rights within their university and country.

Table 11: Does the university in which you work have an official policy document on academic freedom?

Responses	%
Yes	23.6
No	14.8
I don't know	61.7
All (n = 4 710)	100

Table 12: I would welcome additional information on the constitutional/legislative protection of academic freedom in my nation

Responses	%
Agree/Strongly agree	74.8
Neither agree or disagree	17.8
Disagree/Strongly disagree	7.4
All (n = 4 677)	100

The absence of knowledge among university staff about their academic freedom rights means that they are ill-equipped to deal with abuse of such freedoms. The deleterious consequences of such ignorance of the normative protection of academic freedom are revealed in Tables 13, 14 and 15 below. As can be seen, 15.5% of respondents stated that they had been subjected to bullying by their colleagues, 16.3% that they had been subjected to psychological pressure because of their academic views, while 21.1% (one respondent in five) admitted to having subjected themselves to self-censorship. The latter is perhaps the most disturbing, given that most academic observers of academic freedom would rightly argue that there is an evident linkage between academic freedom and freedom of speech – indeed Connolly (2000: 71) observes that “academic freedom is a kind of cousin of freedom of speech”. Consequently, Daughtrey (1990: 267) argues that “the free speech guarantee serves as the basis of the concept of academic freedom”, a view endorsed by Turner (1988: 106) who declaims that “if academic freedom is not simple freedom of speech, it is an extension of the principle of free speech which is an essential prerequisite for the proper performance of the profession”. However, if academic freedom is considered an extension of freedom of speech, yet more than 20% of survey respondents admit to practising self-censorship, it is difficult to see how academic freedom can thrive in such a repressive regime (and, therefore, whether university staff can fulfil their roles successfully); it also raises important questions about the health of freedom of speech in society more generally.

Table 13: Because of your academic views have you been subjected to bullying by academic colleagues?

Responses	%
Yes	15.5
No	84.5
All (n = 4 601)	100

Table 14: Because of your academic views have you been subjected to psychological pressure by someone in your institution?

Responses	%
Yes	16.3
No	83.7
All (n = 4 599)	100

Table 15: Because of your academic views have you ever practised self-censorship?

Responses	%
Yes	21.1
No	78.9
All (n = 4 723)	100

CONCLUSION

The guardianship of academic freedom is a central responsibility of universities and scholars alike. In contemporary society, this trusteeship encompasses all higher education institutions worldwide, but has specific academic, historical and cultural resonance for the universities of Europe, within which this concept was first propounded, developed and shared. This chapter has shown that the constitutional and legislative protection of academic freedom is not at a universally high level within the EU states, as might have been expected, given the important contributions of European universities to the genesis and nurturing of this scholarly liberty. The absence of a high level of *de jure* protection of academic freedom is mirrored by a parallel deficiency in the day-to-day *de facto* protection of academic freedom enjoyed by academic staff in their day-to-day responsibilities for teaching and research in the seminar rooms, laboratories and lecture theatres of today's European universities. Bullying, the application of psychological pressure and the imposition of self-censure are all too common within universities of the European Union. Such activities are generally anathema to the workings of all democratic institutions, but are specifically abhorrent to the workings of universities, the primary motivation of whose staff is the creation of new knowledge, via a process of informed and open debate, in which academic staff have the right and obligation

to exercise academic freedom. The fight for academic freedom has been ongoing since the establishment of the first universities, and has seen scholars being removed from their universities, imprisoned without due cause and even put to death. Contemporary events at the Central European University in Hungary demonstrate that the struggle for academic freedom continues. It is therefore incumbent upon all academic staff and students in Europe's universities to take positive action to ensure that academic freedom is not further undermined. Academic freedom, like many liberties, is fragile and, once removed, may be infinitely more difficult to re-establish than it was to create.

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Academic freedom and institutional autonomy: views from public authorities

Academic freedom, institutional autonomy and democracy: a view from the United States

William D. Adams

ABSTRACT

Academic freedom and institutional autonomy are nearly universal values in colleges and universities around the world, but they are especially important in democratic countries. But among democracies, there are important differences in how academic communities understand and practise academic freedom and institutional autonomy. There are also important differences in how social and political conditions in different countries constrain or encourage these values. This essay provides a brief sketch of some of the issues and conditions affecting academic freedom, freedom of speech and institutional autonomy in higher education in the United States and identifies several challenges to their continued flourishing. The essay also touches briefly on the importance of higher education in supporting democratic values and citizenship in the United States, and on some of the issues now affecting institutional capacity and inclination to fulfil this traditional role.

Keywords: democratic values; democracy; citizenship; freedom of speech; higher education; colleges and universities.

INTRODUCTION

Academic freedom and institutional autonomy are nearly universal values in colleges and universities around the world, but they are especially important in democratic countries. Indeed, it is hard to imagine strong democracy without these foundational principles of academic life (Bergan et al. 2016). But among democracies, there are important differences in how academic communities and public authorities put these values into practice and in how social and political conditions constrain or encourage them. This paper presents a partial picture of these issues as they are playing out in the United States. It also argues that colleges and universities that value and expect academic freedom and institutional autonomy are obliged to nurture democratic citizenship and to protect freedom of expression in their institutional domains.

American higher education is a vast and diverse enterprise. There are approximately 4 500 post-secondary degree-granting institutions in the United States, enrolling more than 20 million students annually (NCES 2019). Roughly 3 000 institutions – nearly two thirds of the total – are private. The private sector is itself extremely diverse, including small liberal arts colleges, religious institutions,

technical schools, large comprehensive research universities and schools originally founded to serve minority populations in the United States. Most institutions in the private sector are not-for-profit, but the for-profit sector has grown rapidly in the past few decades and now includes some 1 200 institutions (ibid.). These for-profit institutions operate much more like businesses than traditional public or private academic institutions.

The public sector is not as large as the private – some 1 600 institutions against 3 000 in the private sphere – but it educates about three times as many students. Most public institutions are under the legal and financial control of the state or territory in which they were incorporated. They are bound by some federal laws and regulations, as well, and they depend upon the federal government for financial aid for students and a good part of their research funding, especially in the scientific and technical disciplines. But in matters of governance, their primary overseers are state and territorial governments.

RELATIONS BETWEEN PUBLIC AND PRIVATE HIGHER EDUCATION

The relationship between public universities and the states has always involved a delicate yet dynamic balance between institutional autonomy and accountability to state authorities and the general public, whose tax dollars support them (Redding 2009). State governments typically grant governing boards, administrators and faculty of public universities substantial autonomy in establishing and maintaining educational programmes, determining institutional priorities and managing the daily routines of institutional life, subject to the constraints of budgets set by state legislators.

It is also important to note that the periodic review and reaccreditation of both public and private institutions in the United States is conducted by non-governmental regional organisations that engage teams of expert peer reviewers drawn from the higher education universe. This unusual system of licensing and peer review is another important foundation of institutional autonomy in the United States.

Because they are governed by independent boards of directors and do not rely on public funding for their operations, private colleges and universities in the United States enjoy a remarkable degree of institutional autonomy. They, too, must abide by federal laws and regulations, but in matters of institutional purpose, research and teaching, private institutions are nearly independent of outside oversight, excepting the periodic review of regional accrediting organisations.

THE PRESSURE OF ESCALATING COSTS

The independence of private institutions has come under increased pressure over the past two decades, owing in great part to the steadily rising cost of private higher education in the United States. Most elite private colleges now charge nearly US\$80 000 (€68 000) per year in tuition, fees and expenses to students who can afford to pay full price. Concealed in that shocking number is the fact that most

private colleges, elite and otherwise, discount their stated prices for students with financial need. Those discounts sometimes approach the full cost of attendance. Wealthier institutions are able to discount much more aggressively, but the competition for a shrinking national pool of students has caused less wealthy, less elite colleges to use tuition discounting aggressively, often risking their very existence in the bargain.

As a result of cost and price escalation, private colleges and universities face almost unprecedented public scrutiny and criticism, which has prompted similarly unprecedented – and unwelcome – attention from federal and state officials. Though this interest has not yet crystallised in systematic government interventions – price controls, for instance – it has certainly created the threat of such interventions in the future.⁶⁴

Cost and funding pressures have also created new arrangements of influence and authority within institutions. As fees continue to rise at greater than inflationary rates, private institutions have been forced to find alternative funding sources, chiefly through private philanthropy.⁶⁵ Across the sector as a whole, these efforts have been impressively successful. In 2018 alone, private support to higher education in the US exceeded US\$46.7 billion, or €39.7 billion (CASE 2019). The biggest winners in this dazzling haul were elite institutions, such as Harvard, Stanford and Cornell, but most private institutions have been able to increase philanthropic support substantially over the past few decades. The growing wealth of independent institutions has had positive effects, especially on educational quality and access. But private philanthropy also shifts the balance of power within institutions. Private donors in the United States have become increasingly aggressive in their efforts to influence institutional priorities and policies through their gifts. Perhaps more importantly, membership on governing boards is now tied to the ability and inclination to make large gifts. Personal wealth is not necessarily reflective of particular political or cultural views, of course, and there are certainly large donors who give institutions wide berths to decide what to do with gifts. But recruiting directors from the US corporate sector, and especially from the financial sector, has consequences. Many governing boards are becoming more focused on externalities – competitive rankings, marketing and recruitment, reputation – and less engaged with educational purpose and concerns. When the curriculum does come into view, boards heavily weighted towards corporate and financial interests tend to be less interested in the broad goals of liberal learning and the interests and methods of the human and social sciences, and more interested in technical and professional degrees and programmes. This has important implications for the civic

64. In the late 1980s, the Attorney General of the United States opened an investigation into price fixing among a number of prestigious private institutions, including the members of the Ivy League. The case was resolved several years later, when the institutions in question agreed to discontinue certain forms of information sharing. The Attorney General's action was clearly informed by growing public concern about the costs of higher education, which have since escalated even further.

65. The unique tradition of philanthropy in higher education in the United States has depended from the outset on the creation of strong emotional ties between graduates and their institutions. Indeed, colleges and universities now devote substantial energy and resources to the cultivation of these bonds both before and after graduation.

mission of the university and the preservation of disciplines critical to education for democratic citizenship.

PUBLIC SECTOR FINANCE

A parallel development has been taking shape in the public sector. One of the most important developments in US higher education over the past two decades, and especially since the recession of 2008, has been the steady diminution of state financial support for public colleges and universities. State funding for public two- and four-year colleges in the 2017 academic year was nearly US\$9 billion (€7.9 billion) *below* its 2008 level, net of inflation (Mitchell, Leachman and Masterson 2017). This decline has had two predictable effects. First, tuition and fees at public institutions have risen dramatically over this same time period – 35% on average across the country.⁶⁶ As in the private sector, these increases have far exceeded the growth of family income. As the costs of public higher education have shifted from state governments to students and parents, public colleges and universities have also been forced to turn to private philanthropy as an essential source of revenue. In virtually every state, public institutions are investing heavily in fundraising programmes, sometimes with impressive success. But as in the private sphere, greater dependence on fundraising brings governance difficulties, especially in the increasing influence of individual donors on institutional decisions about educational priorities, and in the broader influence of business and commercial interests and perspectives on governing boards.

This story is neatly represented by the University of Michigan, one of the most important public universities in the United States. In 1960, state support for operations at the university constituted nearly 80% of all revenue, while tuition and fees accounted for 20%. In 2017, that picture was flipped, with tuition and fees representing 75% of all revenue and state support representing less than 15% (University of Michigan 2019). Meanwhile, Michigan has had significant success in fundraising. In 2017 alone, the university raised US\$456 million (€401 million), and in 2019 it announced that a comprehensive capital campaign had garnered a staggering US\$5 billion, or €4.4 billion (Scutari 2018). In light of the withdrawal of the state from the funding picture, these successes are critical to the future financial health of the university, but they will almost certainly lead to significant shifts in the balance of influence among donors, trustees, administrators and faculty.

THE CHANGING NATURE OF GOVERNANCE

The impact of the changing nature of governing boards at public institutions played out recently in an extended drama at the University of Virginia (UVA), another flagship public university. In 2012, UVA President Teresa Sullivan resigned abruptly, citing “philosophical differences” with the university’s politically appointed board of visitors.⁶⁷ As it turned out, those differences revolved around the opinion of several

66. Increases have been particularly aggressive for so-called “out-of-state” students. Differential tuition rates for in-state and out-of-state students in the US is analogous to differential rates of tuition between in-country and out-of-country students in Europe, outside the EU.

67. The name given to the governing board at the University of Virginia.

powerful board members that the university was falling behind in social, economic and especially technological change and needed to alter itself dramatically and rapidly to keep up. President Sullivan resisted the pressure, defending the university's commitment to a comprehensive educational programme and to traditional avenues of scholarship. She was forced to resign. An angry and shaken university community in turn forced her reinstatement (Stripling, Mangan and Read 2017), but the episode is a cautionary tale about the increasingly business-oriented culture of governing boards at public institutions.

A different sort of scenario, also precipitated by economic pressures, played out recently at the University of Kentucky. In 2016, newly elected Governor Matt Bevin told the legislature that he was considering the idea of charging higher tuition for subjects without (in his narrow view) economic utility, such as French literature, and less for programmes with demonstrable economic and technological impact, such as engineering. "There will be more incentives to electrical engineers than French literature majors," Bevin said. "All the people in the world that want to study French literature can do so, they are just not going to be subsidized by the taxpayer" (Beam 2016). Bevin repeated these sentiments as recently as July 2018.

The governor's animosity toward the human sciences is striking. But even more troubling is his apparent indifference to the traditional mission of the university: advancing knowledge across the breadth of human experience and academic fields and educating students for broad engagement in society, including with issues illuminated by the human and social sciences. The governor was also taking aim at a key principle of institutional governance in public institutions – that boards, administrations and, especially, faculties should have primary responsibility for establishing academic programmes and policies.

THE SHIFTING SENSE OF INSTITUTIONAL AUTONOMY AND ACADEMIC FREEDOM

The meaning of institutional autonomy in the United States is shifting, in both the public and private sectors. Direct interventions by federal and state governments in the educational activities of colleges and universities are still relatively uncommon, but new kinds of pressures, emerging in part from tectonic changes in the funding of higher education, are affecting the independence and governance of institutions in subtle but consequential ways.

If by academic freedom we mean the freedom of individual professors to pursue research ideas and programmes without fear of interference or reprisals by institutional or government authorities – "the teacher's independence of thought and utterance," as one recent study has it (Bowen and Tobin 2015: 201) – then one would have to say that academic freedom remains a widely respected standard in higher education in the United States. Research across the fields of knowledge continues in a relatively unfettered way. But if by academic freedom we mean to include freedom of expression and the open and civil exchange of ideas on college and university campuses, then we would have to acknowledge that academic freedom in US colleges and universities is being put to the test.

A quite recent incident at Beloit College, a private liberal arts college in the Midwest, reveals something about the nature of that test. In March 2019, a controversial public figure, Erik Prince, founder of the private American security company Blackwater, was invited by a conservative student group to speak on the campus. Minutes prior to Prince's arrival in the auditorium where he was scheduled to speak, a group of students took control of the space and disrupted the proceedings by playing music and stacking chairs on the stage. They also hung a banner on the stage that read "Erik Prince = War Criminal". Observing the chaos in the room and the potential security risks, a college administrator announced to a cheering crowd that Prince's talk was cancelled. The following day, the college administration expressed its dismay at the events of the previous evening and reminded students of the significance of free expression and civil discourse. An internal investigation is underway (Bauer-Wolf 2019).

The incident at Beloit followed a pattern established in earlier disruptions in various parts of the country, including the disruption of a speech by social scientist Charles Murray at Middlebury College in Vermont. Murray's views on race and intelligence have been controversial for decades, and his views and speaking engagements have always been lightning rods. As at Beloit, the initial invitation to Murray was issued by a student group – the campus chapter of the American Enterprise Institute, a deeply conservative think tank in Washington, D.C. The Middlebury administration was not pleased by the invitation, but it defended the students' right to issue the invitation and Murray's right to express his views on campus. Murray briefly took the stage but was forced to stop by the noisy disruption that ensued. He was taken to an alternative location where his lecture was broadcast online. As Murray left the broadcast facility, he was met by an angry group of students. In the confrontation that followed, the car transporting Murray was damaged and one of his hosts, a Middlebury professor, was mildly injured (Gans, Arnold and Ganeous 2017; Krantz 2017). The Middlebury administration conducted a formal investigation of the incident and eventually sanctioned dozens of student participants with penalties ranging from probation to notations in their student records.

Two things stand out from these and similar events. First, in most cases where students have staged disruptions, politically conservative student groups have been the source of invitations to provocative public figures. While nearly everyone apart from the disrupters defends the rights of such groups to issue these invitations, it is certainly the case that many, perhaps most, of these invitations were meant to provoke the reactions they did. Second, most of the recent disruptions on college campuses have been carried out, by and large, by progressive or left-leaning students and student groups, including those representing minority students who claim to be emotionally (and in some cases physically) threatened by the presence and ideas of conservative speakers. The disruptions have been defended by students who claim to feel threatened, and they have been attacked by right-leaning critics, who view the disruptions as particularly egregious forms of "political correctness".

Several pieces of social and historical context are worth noting. First, the mostly negative public responses to these disruptions are strongly influenced by the

social, political and legal history of the First Amendment to the US Constitution, which guarantees freedom of speech. First Amendment protections in the US have been extended to forms of speech that often are not protected in other countries – for instance, speech that denigrates or threatens another social group. The culture that has developed around the First Amendment shapes the ways in which speech practices on college campuses are perceived, even though private institutions such as Beloit and Middlebury are not technically bound by its provisions. The more precise question regarding speech at private institutions is this: what does academic freedom, understood as free expression, demand of private colleges and universities?

Second, the recent campus disruptions and related speech issues are closely related to the considerable efforts of colleges and universities to become more representative of the racial, ethnic and economic diversity of the United States as a whole. These efforts go back five decades or so, but they have been especially significant in the last 20 years. In some important registers, there has been substantial progress in diversifying college and university campuses. But this work still has a very long way to go, particularly with respect to the relationship of minority students to the dominant groups and cultures of academic institutions, and especially elite institutions, both public and private.

Finally, the students involved in the recent disruptions are mostly unaware that in the not-so-distant McCarthy-era purge of anything that smacked of communist ideology, left-leaning students and faculty on college campuses were not only silenced but persecuted by political and institutional authorities. Also unknown to most of them is the fact that the student movement of the 1960s in the United States originated in the Free Speech Movement at the University of California at Berkeley. These ironies are not lost on older commentators in the media and elsewhere.

Some critics of higher education say that political correctness is also at issue in the call for so-called “trigger warnings” when class materials and discussions involve racial and sexual violence or other difficult subjects. The debate about “trigger warnings” has been energetic and wide-ranging, and many faculty and administrators have registered both philosophical and practical objections. But the idea that students should be protected from or warned about the imminence of challenging material in the classroom has held sway in a number of US colleges and universities, including campuses with strongly progressive student bodies, though it is not clear how widespread this practice actually is. What is widespread, and a point of rare agreement among many progressives and conservatives, is the belief that students are being “coddled” at colleges and universities in the United States (Lukianov and Haidt 2015).

CONSERVATIVE CRITICISM OF HIGHER EDUCATION

These are fertile grounds for conservative critics of US higher education, who have been arguing for years that colleges and universities are engines of leftist ideology and indoctrination. Initially, these criticisms were aimed primarily at college and university faculty and their purportedly left-wing biases, but they have now

expanded to include students (as practitioners of intolerance) and administrators (as accomplices or aiders and abettors). Public hostility toward colleges and universities for their “political correctness” reached an apogee of sorts recently, when President Donald Trump issued an executive order on “improving free inquiry, transparency, and accountability at colleges and universities” (Trump 2019). The order directs all federal agencies to ensure that public and private institutions receiving federal funding for research and education are promoting “open debate and free inquiry” on their campuses. It notes that free inquiry is essential to democracy and economic prosperity, but it is silent on the definition of free inquiry and on what sort of enforcement measures might be in the offing.

The irony of the Trump administration lecturing college and university communities on the connection between academic freedom and democracy is rich indeed. And it is not clear that the order has any real purpose beyond serving as a symbol of the conservative movement’s dissatisfaction with what is happening on college campuses. But even as symbolism, it is an important measure of a substantial part of the American public’s exhaustion with what it sees as systemic political correctness in the academy.

In light of the fact that most challenges to free expression on campuses involve left-leaning students, one final incident is worth recounting. In 2014, Professor Steven Salaita was conditionally offered appointment at the University of Illinois Urbana-Champaign in the Department of American Indian Studies. At Virginia Polytechnic Institute and State University, where he previously held a tenured position, Salaita became known for making controversial statements on his private Twitter account about the behaviour of Israel towards Palestine. Sometime after the conditional offer of appointment at Illinois, Salaita tweeted more such comments that caught the attention of members of the university community, including major donors and important alumni. Chancellor Phyllis M. Wise received hundreds of complaints and subsequently rescinded the offer of employment, a decision affirmed by the board of trustees.

The Twitter posts in question, which supporters of Chancellor Wise’s decision alleged were antisemitic, were clearly expressions of Salaita’s private views. In defence of her decision, Chancellor Wise made reference to the university’s standards of civility, notwithstanding the fact that Salaita was not yet an employee and that his tweets were not made from the Illinois campus. The reaction from most faculty at Urbana-Champaign and elsewhere around the country was swift and harshly critical of Wise, and the university ultimately settled a lawsuit brought by Salaita. Chancellor Wise resigned less than a year later (Palumbo-Liu 2014).

THE NEUTRAL, DISPASSIONATE UNIVERSITY?

The meaning of events at Beloit, Middlebury, Illinois and on other campuses is this: for a very long time, US colleges and universities have invested a great deal in the notion that they are havens of free and open discourse where controversial ideas can be examined rationally and dispassionately and where the rules of civility and respect prevail over the rougher realities of political discourse beyond the campus. The university, in this sense, is not just committed to the free inquiry of

professionals working away in their studies, laboratories and classrooms. It also is dedicated to providing a forum where members of the academic community shed their partisan identities and participate in a conversation about – and for – the public good. This works if individuals are willing to engage in civil conversation, a notion now in question on US campuses. The most petulant, uncivil voices are currently coming from the left, though not exclusively, as the Salaita case demonstrates. But it has not always been so, and we can expect that sooner or later the challenges to free expression and the demands of political orthodoxy will come from the right, as they did during the Cold War. What is certain is that the US college or university now looks much less like its ideal self and much more like the public square, where political values and ideas are weapons in a zero-sum political conflict. It is not an accident that this conflict, in public places and on college and university campuses, has grown more strident and difficult in the context of the presidency of Donald Trump, who made his way to power by mining deep veins of political fear and anxiety in broad sectors of the US public. The hyperbolic extremes of social media have also strongly influenced the current situation.

Is it possible for American colleges and universities to again be places of open and dispassionate debate? Were they ever? What will become of the academic enterprise if free and civil exchange of ideas cannot be revived and sustained? And what are the prospects for American democracy if the academy abandons this hopeful self-conception?

CIVIC EDUCATION

There is another, closely related domain in which colleges and universities have been considered essential to democracy in the United States, and that is their role as practitioners of civic education. Indeed, education for citizenship has been understood as one of the chief responsibilities of US colleges and universities, especially those in the public sector. Public colleges and universities have been almost universally regarded as one of the anchors of American democratic life, both as guarantors of equal opportunity and as keepers and purveyors of the knowledge and skills necessary to the exercise of democratic citizenship. Few ideas have been as constant or widely shared across time and the divides of party and political persuasion.

Until recently, education for democratic citizenship was a core element of post-secondary curricula. It was meant to help students understand the general contours of US history, the principles of constitutional democracy and key federal, state and local political institutions and practices.

Notwithstanding its long history and pedigree, the civic education tradition in higher education is badly frayed. And that fraying begins with the most basic question of what the university is and does. Many institutions, perhaps all to some degree, are relinquishing the idea that higher education is first and foremost a civic enterprise. In place of public purpose, we are confronted with an increasingly narrow, instrumental vision of education that is driven almost entirely by economic and commercial purpose. Higher education is rapidly becoming “an exercise in job and career preparation” (Barber 2015).

It is even more worrisome that higher education is not alone in this trend but is joined by public primary and secondary schools. The effects of this retrenchment at both the secondary and post-secondary levels are well documented. A recent survey by the Woodrow Wilson National Fellowship Foundation found that two in three Americans would fail the test that all immigrants seeking citizenship must pass (WWNFF 2018). Other data confirm this knowledge deficit in civics and related subjects. Humanities Indicators, a data gathering and analysis project of the American Academy of Arts and Sciences, reports that only 24% of all US eighth graders scored at or above the proficient level on the National Assessment of Education Progress civics exam. High school seniors performed even worse. And “in every testing year, a *substantial majority* of children in the assessed grades (4th, 8th, and 12th) failed to demonstrate proficiency in US history” (Humanities Indicators 2019). These disappointing results and the concerns they generate are not entirely new in the American context. What *is* new is the pace of the disappearance of civic education, which is even more alarming when combined with our current political climate.

Somewhere near the core of these trends is the eagerness to jettison the human sciences as essential elements of higher education. An article in *The New York Times* reported on curricular cutbacks at the University of Wisconsin Stevens Point, where administrators decided that students would no longer be able to major in history, among other humanities subjects (Smith 2019). The rationale for this decision was a decline in numbers of majors and enrolments. Such declines are often fatal for programmes in institutions that tie resources directly and punishingly to class enrolment. Investment in flashier, more career-relevant subjects such as business and engineering promises to boost an institution’s reputation and lure more students. After public outcry, the Stevens Point decision was very recently reversed, but it is a signal nonetheless of what is coming in many public institutions.

What is especially disturbing about the withering of the commitment to civic education at the post-secondary level is that it is occurring more quickly at public institutions and, among them, at institutions with fewer resources to begin with. And so democratic prospects are battered twice: programmatically, because students do not learn about history and democracy, and socially, because students have unequal access to important educational goods.

A ROAD TOWARDS ACTION

The highly decentralised nature of public and private higher education in the United States makes the growing crisis of civic education difficult to address. While extolling the virtues of civic education, the government of the United States has never been in the curriculum business, and it does not have the mechanisms to require that institutions teach the foundations of citizenship. The US Department of Education is a vast agency controlling enormous sums of money, but most of its activities focus on regulation, assessment, block grant-making to the states and student aid. The United States has two cultural agencies – the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH). The NEH, especially, is committed to teaching and research in subjects essential to citizenship – American history, constitutional theory and political and social philosophy.

But NEH does not have the authority or the capacity to design a national curriculum for civic education. No single entity does.

So, what is to be done? How might colleges and universities be persuaded to recover their sense of civic purpose?

First and foremost, civic education must become the focus of political mobilisation and action among leaders in higher education, faculty on college and university campuses and students. The first target of this mobilisation must be the home institution. Is education for democracy a central component of the institution's mission? Are there sufficient curricular and faculty resources dedicated to this end, and are the expectations of and for students clearly articulated? Are classroom offerings accompanied by experiential components that give students a taste for democratic life and institutions in their local communities? And is the institution visibly engaged in civic life in ways that model the importance and nature of democratic citizenship?

Second, administrators and faculty in colleges and universities should align with parents in their local communities to press for the reform of civic education in nearby primary and secondary schools. Many institutions have the capacity to support this kind of reform by providing resources to help local teachers design courses and develop their own knowledge. College students with experience in relevant academic disciplines and political activities could also be usefully involved as mentors and guides to primary and secondary school students.

As the circle of mobilisation widens, administrators and faculty should seek involvement at the state level, assessing state requirements and working with state legislators and administrative officials to reform mandates for local school districts. This will no doubt require political pressure as well as professional advice. But state governments will be critical to any reform agenda. Currently, only 10 states require one year of civics-related course work for high school graduation: 30 states require half that and 10 states require nothing at all (Shapiro and Brown 2018). It will be difficult for local school districts to become serious about education for democracy if state governments do not support change.

Last but not least, regional higher education accrediting bodies must be encouraged to change their expectations. Without the prospect of meaningful federal involvement in the reform of civics education, those bodies responsible for certifying institutions and assessing their programmes must revise their expectations for institutions. This can be done democratically by seeking the engagement of regional institutions in the development of new standards.

As these outward-facing measures are embarked upon, colleges and universities must continue to grapple with the issue of free expression on their own campuses. This is not so much a matter of defending "free speech", in the narrowly constitutional sense of that term, as one of defending certain core academic and democratic values. As college and university leaders know only too well, this is tough and complicated terrain, and there is no easy passage. Campuses and campus leaders really do need to worry about, listen to and address the concerns of under-represented students as they struggle for legitimacy and recognition. This includes

understanding how and why minority students find certain political positions and actors threatening. At the same time, college and university campuses must stay committed to the practice of free expression, as imperfect as it is and will be. Keeping that commitment is an inherently messy and noisy business, and colleges and universities should not expect – and will not receive – a great deal of public sympathy for the hard work and challenges involved. But the academic community cannot reasonably expect public support for academic freedom and institutional autonomy if it cannot sustain the effort of free expression in its own house.

With respect to the future of education for democracy, all of these spheres – campus, community, state government, accrediting agencies – are critical, and no one sphere is sufficient. The juggernaut of vocational and commercial purpose is powerful and now deeply rooted in how American consumers assign value to education. Widening the aperture of aspiration to a broader sense of purpose, one that includes education for citizenship at its core, will take time and tremendous effort. But nothing will change without widespread and steady moral and political pressure for change.

American colleges and universities require autonomy to create knowledge and to educate students freely. But that autonomy carries with it the obligation to nourish the democracy responsible for the existence and flourishing of these institutions. This is especially true now, when so many voices are clamouring for higher education to be an engine of technological and economic development. The university can be – has been – such an engine. But it also has been and must always be something different, and something more.

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Institutional autonomy and academic freedom: the complex role of public authorities

Ligia Deca

ABSTRACT

Institutional autonomy and academic freedom are fundamental values of the European Higher Education Area (EHEA) that have been reinforced through various political statements. They are also considered a hallmark of academia in most democracies; their role in guaranteeing quality higher education and research is largely undisputed, at least in discourse. However, recent developments have shown that these two key values of academia are not a given, especially when populism seeps in or when faculty or students challenge those in power at a given time. The role of public authorities in safeguarding these values is essential, but more complicated than it would seem at first glance. This chapter seeks to identify and analyse the thin ice on which public authorities need to walk in order to fulfil this role. It also aims to provide an insight into the intrinsic link between other fundamental values in a democracy and the academic ideal of institutional autonomy and academic freedom.

Keywords: institutional autonomy; academic freedom; public authorities.

CONTEXT

Institutional autonomy and academic freedom are fundamental values of the European Higher Education Area (EHEA) that have been reinforced through various political statements. They are also considered a hallmark of academia in most democracies; their role in guaranteeing quality higher education and research is largely undisputed, at least in discourse. However, recent developments have shown that these two key values of academia are not a given, especially when populism seeps in or when faculty or students challenge those in power at a given time. Climate change is currently a taboo topic if you want your research to receive federal funds in the United States; being active internationally may give you legal troubles in Turkey; and giving a voice to those that support democratic liberalism might prompt the closing of your university in Hungary. Even in well-functioning democracies, academic freedom is increasingly curtailed by the politicisation of content (Lukianoff and Haidt 2015). All these examples show that even in places that we would not consider dictatorships, the fight for academic freedom and institutional autonomy remains important.

The role of public authorities in safeguarding these important values is essential, but more complicated than it would seem at a first glance. A delicate balance needs to be struck between providing the regulatory framework and the monitoring mechanisms to ensure that institutional autonomy and academic freedom are protected, while also making sure that there is enough space for higher education institutions to fulfil their primary role. In some cases, public authorities are caught in the classic “damned if you do, damned if you don’t” conundrum, even if they have the best intentions. This paper seeks to analyse such potential cases and provide more insight into the intrinsic link between other fundamental values in a democracy and the academic ideal of institutional autonomy and academic freedom.

INSTITUTIONAL AUTONOMY AND ACADEMIC FREEDOM – DIFFERENT REALITIES, THOUGH COMMON GOALS

Despite being mentioned often in the same breath, institutional autonomy and academic freedom are distinct concepts, but differently understood depending on the given context (Matei 2017; Ren and Li 2013). Predominantly, academic freedom is defined as the freedom of individuals in academia (academics or students) to pursue their activities in the university (teaching, research, study) without inappropriate interference from legal frameworks, institutional regulations or political pressure. University autonomy is the right of the entire higher education institution to decide its organisational and functional structures, to pursue its own mission and design an institutional strategy, as well as to manage its budget and personnel. Curriculum development and admission standards are also seen as being at the latitude of a truly autonomous higher education institution (Matei 2017). With this in mind, institutional autonomy can be seen as a *sine qua non* precondition for academic freedom (Kenesei 2017).

In the Bologna Process, ever since the Bologna Communiqué (Bologna Process 1999), political meetings have underlined the importance of institutional autonomy and academic freedom for the “construction” of what would later become the EHEA. In addition, the rationale for prioritising these values was clearly stated from the beginning:

This is of the highest importance, given that Universities’ independence and autonomy ensure that higher education and research systems continuously adapt to changing needs, society’s demands and advances in scientific knowledge. (Bologna Process 1999)

It was however not until the Yerevan Communiqué (Bologna Process 2015) that a clear nuance was added to the statement that it is not just higher education institutions that should enjoy institutional autonomy and academic freedom, but every member of their academic communities should be awarded the same rights: “We will support and protect students and staff in exercising their right to academic freedom and ensure their representation as full partners in the governance of autonomous higher education institutions”.

The democratic nature of higher education governance thus became associated with these two fundamental values. The Paris Ministerial Communiqué (Bologna

Process 2018) continued the tradition of underlining the importance of the EHEA values, which include institutional autonomy and academic freedom, but it also stated how this could be achieved “through intensified political dialogue and co-operation”.

Some authors detail the ways in which both academic freedom and institutional autonomy are linked to other types of (human) rights or freedoms, such as freedom of speech, freedom of opinion, freedom of assembly and freedom of movement (Beiter, Karran and Appiagyei-Atua 2016). However, since institutional autonomy and academic freedom are confined to the realm of higher education (research and teaching and learning, primarily), they are naturally subject to certain limits. One such limitation is “the obligation to produce and transmit knowledge as a public good and to observe defined academic (including disciplinary) standards, regulations, and practices” (Matei and Iwinska 2018: 348). This makes the balance between freedom of speech and the pursuit of truth a unique trait of academic endeavours.

Despite two decades of converging higher education policies in the EHEA, Tarrach (2017: 5) underlines that “there is no uniform trend towards autonomy in Europe”. This statement is definitely also valid for academic freedom, in light of the fact that this notion has benefited from significantly less attention and operationalisation than institutional autonomy. In the EHEA, the European University Association developed a well-articulated conceptual framework for institutional autonomy, which includes a scorecard type of analysis of its different dimensions, repeated every few years, with the latest analysis from 2017 (Pruvot and Estermann 2017). There is not yet an operational way to look at academic freedom across the EHEA, though there have been recent discussions around this topic in the framework of the debates regarding the future of the Bologna Process. A task force on monitoring fundamental values was set up within the 2018-20 Bologna Follow-Up Group (BFUG) work plan, which is expected to submit to the November 2020 Ministerial Conference in Rome a proposal regarding how best to analyse, for future reporting exercises, how EHEA fundamental values (academic freedom, institutional autonomy, student and academic staff participation in decision making) are respected.

CONUNDRUMS – THE CASE OF ROMANIA

The Romanian Constitution, Article 21, paragraph 6, states that “University autonomy is guaranteed.” (Constitution of Romania, 1991) That is all. The rest is a matter of democratic culture, of checks and balances and sometimes of how legal frameworks are designed and put into practice. Academic freedom does not have a corresponding guarantee. Article 30 of the constitution refers to the inviolability of freedom of expression, without prejudice to someone’s dignity or private life, as well as without prejudice to the image of the country and of the nation. Hate speech or calls for violence are also forbidden. A similar legal approach is present in many countries (Karran and Beiter, this volume), with all the dilemmas posed by modern times.

National authorities in European countries usually face arguments about institutional autonomy, as it becomes a part of the current debates on governance

and funding. But they hear significantly less about academic freedom, unless it becomes linked to specific cases of violation and abuse.

Matei and Iwinska (2018) made a convincing point regarding the fact that both concepts are part of a more overarching idea of freedom – freedom of the individual in a university – be it professor, researcher, student or member of the administrative staff, as well as the freedom of the institution itself, to fulfil its mission and function in society. Europe has seen a development of institutional autonomy via the efforts of the European University Association, as well as through national legislation. But academic freedom is a more elusive concept, one which is also politically sensitive in many countries. And sometimes the reinforcement of institutional autonomy has not meant a consolidation of academic freedom.

From my current vantage point as the representative of a public authority, albeit without direct executive responsibility in higher education, I had the opportunity to witness a series of conundrums that national authorities face, in Romania, but also all across Europe, when it comes to their efforts to intervene in order to guarantee academic freedom and institutional autonomy.

Academic freedom and the freedom of expression

Academic freedom is intrinsically linked with freedom of expression; however, there is a difference between the two, as academic freedom also entails being able to support your claim according to the standards of your discipline, which is in my view very welcome in this era of fake news. There are of course some limits to this, as topic choice, framing, choice of theory and selection of literature review content can all lead to the generation of scientifically valid, but still biased, academic content. It is well known that most economics professors are politically more sympathetic to right-of-centre policy solutions, while social sciences are traditionally more left-leaning (Reville 2015). But when does this naturally ingrained bias become a danger to the mission of higher education institutions?

For example, if you are a public authority, how do you make sure academic freedom means that one does not use academic gravitas to fuel hate speech? I have a particular example that can help in understanding this dilemma. In Romania, a professor in a well-known university expresses antisemitic views every year in his course, with clear passages in his teaching material that deny the Holocaust. The university says it is looking into the matter, but ultimately allows the professor to retire at the end of his career, while publicly stating that it does not share his views (Iosip 2017). Despite the historic reality and the Romanian legal framework that punishes such statements, this professor continued to use his standing as an educator in an otherwise respectable university to sow hatred in an already polarised society. To cite another example, a historian friend of mine told me that as a young history researcher in Romania the Antonescu dictatorship and the 1989 Revolution remained borderline taboo topics, since any challenge to the version presented in existing history textbooks would lead to a *de facto* exclusion from research networks and effectively destroy one's career. These are far from the only cases, however. Once an ideological consensus has emerged in a branch of academia, it is difficult for challengers to contest the status quo without being informally

sanctioned. This leads us to a valid question: how should public authorities intervene, without stepping over the line of institutional autonomy, when the Ethics Council of the university or the epistemic communities are not willing or able to exert the needed peer pressure to stop abuse or unwanted pressure within the academic community itself?

Quality assurance and institutional autonomy/academic freedom

When talking about guaranteeing the fulfilment of university missions, we usually turn to quality assurance arrangements in order to ensure the public responsibility of higher education institutions. In the EHEA, there have been several debates recently about the possibility of looking into how institutional autonomy and academic freedom are being safeguarded via quality assurance arrangements. However, quality standards in some countries, including Romania, go as far as setting the list of courses necessary for a particular programme in order to receive accreditation, which is arguably an interference in institutional autonomy, as well as academic freedom. In other countries, graduate outcomes on the labour market and government funding priorities (such as pro-STEM (Science, Technology, Engineering, Mathematics) policies) have a similar effect by putting pressure on institutions to focus on what is financed by the state. The question arises: how can the need to guarantee minimum standards or societal demands and the need to give the proper freedom for academic communities to thrive be reconciled?

Quality assurance processes have also shed light on other tensions between academic freedom and institutional autonomy. During external evaluations of programmes or universities, review panels often have dialogues with members of the academic staff or of the student body. In some cases, the statements given by students or faculty members are quite critical and this might prompt the enforcement of “public defamation” clauses in university rules and regulations. This means that even if what is said in front of a quality assurance review panel is true, if it harms the prestige of the university, the institution can take action against the individual who made the claim. This is in line with institutional autonomy according to some legal frameworks, but it is clearly not in line with the principle of academic freedom or even the right to freedom of speech.

Governance traditions, capacity and institutional autonomy

Romania modelled its higher education system on 19th-century French practices, following the Napoleonic tradition, in order to consolidate the then new nation state. This led to the development of a rather centralised view of higher education. Following the Second World War, 50 years of communism added a second layer of centralisation. After the 1989 revolution, democracy swept in and with it the expectation that universities should become autonomous and self-reliant. But a profound change in organisational culture cannot happen overnight. Capacity to self-govern and enjoy autonomy is built over time, as is public trust. So, if we talk about countries transitioning from former totalitarian regimes to democracy, or

about post-conflict countries, what would a successful process of regaining institutional autonomy and academic freedom look like?

We can find examples of various problems that arise once institutional autonomy is fully granted without having built proper capacity. One relates to a clash between values in academia, for example between ensuring an equitable higher education system for all those with the necessary talent (via measures such as quotas or social scholarships) and the institutional autonomy of universities to select their future students. Where does one draw the line? Another problem is linked with the decision makers and the wider public's need for transparency. In time, this has led in some cases to an overload of bureaucratic requirements, which, in turn, have a negative impact on individual performance and, ultimately, on institutional autonomy. A final example may be linked to the pressure to mainstream internationalisation at home (Beelen and Jones 2015). However, if the level of institutional autonomy is low, with universities having to observe strict public salary grids or not being able to fully use their own funds (Deca 2016), how can higher education institutions attract foreign faculty members or design strategies for making sure that all students are exposed to meaningful international experiences?

CONCLUSION

In our present “post-truth” era, academic freedom and institutional autonomy cannot be protected unless their distinct and complex relationship with the overall state of democracy is recognised. This means that the responsibility of public authorities to facilitate strong systems of checks and balances, while recognising the exceptional nature of academia in its efforts, will become even more important in the future.

This contribution has aimed to uncover some of the complex situations that arise when public authorities attempt to define and fulfil their role in making sure that core values such as institutional autonomy and academic freedom remain the basis for European higher education systems. The examples portrayed show that academic freedom needs to be defended from multiple threats. Some originate from the direct and indirect intervention of the state, others from pressure within the academic community itself. Institutional autonomy is also facing threats from the complex relationship between formal autonomy provisions and state policies that aim to make universities accountable, especially if they are publicly funded.

Clearly, the two concepts go hand in hand, and they should balance each other in order for universities to be able to fulfil their missions. In this sense, institutional autonomy should not develop and be safeguarded at the expense of the academic freedom of individual faculty members or students. In the United States, the debates around academic freedom may have been historically complex and may have produced clear results, but in Europe, on the other hand, the debate around institutional autonomy has overshadowed for over a decade the need to also look at how to protect individual rights.

In this context, the efforts of the Council of Europe and others to address these subjects in the frame of the EHEA are timely and most welcome (Council of Europe 2006;

2012). The Declaration of the Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy, adopted in June 2019 and included in this volume, contributes to the clear progress that has been made in stepping up efforts to make sure that institutional autonomy and academic freedom remain at the core of the European Higher Education Area. I am therefore fairly confident that future research and policy efforts will advance the debate on how to measure and guarantee the progress regarding these two core values of academia. It is safe to say that their absence would mean that our democratic societies no longer have a pluralist future.

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Academic freedom, institutional autonomy and the future of democracy: a view from UNESCO

Stefania Giannini

INTRODUCTION

As the only United Nations agency with a mandate for higher education, the protection of academic freedom and institutional autonomy is at the very core of UNESCO's mandate. Through its normative role and recognition conventions, UNESCO carefully monitors the state of academic freedom and institutional autonomy among its member states and provides a platform to inform on and to defend academic freedom wherever it is under threat. UNESCO's founding mission, "to build peace in the minds of men and women", demands that the principles of freedom of speech, of open dialogues and of informed consensus be safeguarded; principles that are also held sacrosanct by spaces of higher learning around the world.

CHALLENGES RELATED TO ACADEMIC FREEDOM

Today we see academic freedom and the autonomy of higher education institutions under threat in various ways, and on all continents. Academic freedom is no longer only threatened by the censorship of authoritarian rule, and its threats take many forms – from faculty self-censorship to violent attacks. Two interlinked dimensions in this regard may be considered.

The first concerns the relationship between quality and academic freedom. The quality of an academic institution's research and teaching relies heavily on its capability to afford its staff the sufficient freedom to decide among themselves their research questions, study programmes, teaching pedagogies and assessment methodologies.

Academic freedom underpins the crucial fulfilment of the Sustainable Development Goal 4 target to ensure affordable quality tertiary education for all men and women. Achieving quality education does not only depend on providing good academic teaching and learning materials, or to ensure mechanisms of internal and external quality assurance but relies on the existence of a culture of quality among faculty, and a drive for continuous improvement and quality enhancement of teaching and learning.

No such cultures of quality can exist without empowering the faculty, leadership and administration of higher education institutions with the freedom to participate in the governance of their institutions; to actively take part in national policy debates and decisions that impact the quality of education and to shape curricula and teaching based on informed research.

INTERNATIONAL NORMATIVE INSTRUMENTS

By way of UNESCO's Recommendation concerning the Status of Higher-Education Teaching Personnel (UNESCO 1997), our member states have expressed a commitment to protect and defend academic freedom and institutional autonomy. However, we often see that within a narrow definition of institutional autonomy, administrative prerogatives are put above the faculty's freedom to do research and teach.

Limited support to higher education institutions in terms of resources and funding constitute another threat to institutional autonomy, as institutions are often constrained in research that would beneficially inform curricula and teaching, making them vulnerable to outside pressures.

We see today how political and economic pressures further reduce academic freedom within and outside higher education institutions. In too many cases, higher education teaching personnel do not receive the support they deserve; they face restrictions and barriers and are often excluded from decisions that matter to them.

Such threats are critical not only for the quality of higher education, but also for the entire education system, since the state of academic freedom in higher education is also the basis upon which much of the entire educational system rests.

Academic freedom helps to ensure higher education institutions are places where learners develop the knowledge and full range of skills, attitudes and behaviours they need to become informed and responsible citizens. Such responsible citizens need the ability to think critically, recognise forms of manipulation, distinguish fact from opinion, respect diversity, thrive and learn in a diverse world.

In response to the rise of political and ideological extremism, UNESCO has intensified work with universities on issues of global citizenship and the prevention of violent extremism. For example, in 2017, in co-operation with the University of Sherbrooke, the University of Quebec in Montreal and Concordia University, UNESCO launched a new Chair on the Prevention of Radicalisation and Violent Extremism,⁶⁸ the first of its kind. This UNESCO chair, hosted by the University of Sherbrooke in Montreal (Canada), has promoted an integrated system of research and education involving high-level researchers, teachers and experts from all regions of the world, with a particular focus on facilitating exchange of good practices to prevent radicalisation and violent extremism with a multidisciplinary and cross-regional approach. Academic freedom is a prerequisite for the work of such

68. See <https://en.unesco.org/news/new-chair-prevent-radicalisation-and-violent-extremism>, accessed 27 September 2019.

chairs, and the many others we have in areas such as freedom of expression, gender equality and inclusion.

The second dimension relates to attacks on education. It is perhaps more important than ever to highlight that academic freedom and institutional autonomy in many parts of the world remain under threat of physical attack.

Over the past two years alone, higher education institutions have come under siege in 20 countries, including the tragic attack on Garissa University College in Kenya in April 2015, killing 148 people and injuring many more.⁶⁹ These attacks are not simply news headlines: they are stoking fear around education spaces and stealing futures.

Attacks against education are attacks against knowledge and the power it has to transform lives, and its capacity to build futures.

UNESCO'S INITIATIVES

UNESCO's vision is one of education and culture as drivers of resilience, recovery and reconciliation; of schools and universities as safe havens.

In 2018, UNESCO launched a flagship initiative to "Revive the Spirit of Mosul"⁷⁰ – an iconic city ravaged by war. Ancient cultural landmarks – symbols of diversity and identity – including universities were ruined. An estimated 90% of students were excluded from learning environments and the university library with its vast collection of valuable manuscripts was destroyed.

Our initiative in Mosul captures our society-wide approach. It focuses on skills and values, on the revival of cultural and intellectual life and the rehabilitation of cultural heritage.

A further example of crisis-sensitive planning that UNESCO is determined to address is in the Sahel region affected by increasing security and displacement, for second-chance programmes inside Syria and university scholarships for displaced Syrian youth in Lebanon. Our work on global citizenship education⁷¹ – including education for international understanding, peace and human rights – can give individuals the tools to transform their communities and transmit values of reconciliation and solidarity.

The current pilot of the UNESCO Qualifications Passport for Refugees and Vulnerable Migrants (UQP) is yet another initiative that our organisation is pursuing to ensure that no one is left behind in their desire to access higher education and lifelong learning opportunities.⁷² With the Global Convention on the Recognition of Qualifications concerning Higher Education adopted by the UNESCO General

69. See www.bbc.com/news/world-africa-32169080, accessed 27 September 2019.

70. See <https://en.unesco.org/projects/the-spirit-of-mosul>, accessed 27 September 2019.

71. See <https://en.unesco.org/themes/gced/definition>, accessed 27 September 2019.

72. This UNESCO project is inspired in part by the Council of Europe's European Qualifications Passport for Refugees, see www.coe.int/en/web/education/recognition-of-refugees-qualifications, accessed 27 September 2019.

Conference in November 2019 (UNESCO 2019), the introduction of such a specialist tool is timely.

The need to protect education in contexts of crisis and conflict and as a force for reconciliation has never been more urgent.

Education can heal the wounds of conflict and sow the green shoots of peace, and reconciliation through engagement. Higher education institutions based on the principles of academic, teaching, learning and research autonomy are vital to ensuring that these freedoms and human rights are retained.

CONCLUSION

The last two decades have seen an unprecedented rise in enrolments in higher education globally, with more than 250 million learners – from all walks of life – recognising the opportunities that higher learning affords for knowledge sharing, for an open critical analysis of the challenges facing the planet today and for collaboratively seeking solutions. This increasing, encouraging engagement also demonstrates the trust that communities today place in their institutions of higher learning to prepare current and future generations to be creative, innovative and empathetic global citizens within an environment free from bias or externally influenced agendas. This trust must not be compromised. The traditional academic values enshrined in institutional autonomy and academic freedom must continue to be upheld by higher education systems in all parts of the world to ensure that the human desire for growth, understanding and development can be achieved for the good of all.

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Academic freedom and institutional autonomy: examples and challenges

21st-century challenges to institutional autonomy and the public good: an American perspective

Jonathan R. Alger

ABSTRACT

The mission of colleges and universities in the US has long been understood to include service to the “public good” and to the sustenance of healthy democracy. In order to play this role, US institutions of higher education historically have enjoyed significant institutional autonomy or “institutional” academic freedom to make decisions related to their educational missions. The concept of institutional autonomy is rooted in American law and includes “four essential freedoms”: to determine on academic grounds who may teach, what may be taught, how it shall be taught and who may be admitted to study. Each of these freedoms faces threats from outside and within the academy today – threats which reflect the deep political divisions and polarisation of the 21st century. These threats are fuelled by increasing scepticism about the role of higher education in society, and about the roles of expertise and institutions in general. Rapid changes in technology exacerbate these challenges by making it easier for campus issues and incidents to spread quickly and become sensationalised in the media and on social media. Higher education must retain some degree of institutional autonomy to serve as a buffer against temporary political forces in the service of longer-term ideals that support and sustain democracy.

Keywords: academic freedom; civic engagement; democracy; institutional autonomy; public good.

INTRODUCTION

The mission and role of higher education in democratic societies has always been complex and multifaceted. In the United States in the 21st century, and particularly after the Great Recession of the late 2000s and early 2010s, much of the public discourse has centred on how colleges and universities should focus on workforce development and job-readiness for their graduates. This focus has created a consumer-oriented mindset in which higher education is viewed as a transaction between two parties (the institution and the student), and essentially as a private good. But another narrative about higher education has also long been a part of American history – the mission of higher education to promote the

public good (AGB 2019). This mission was eloquently articulated by the Truman Commission on Higher Education in 1947, just after the Second World War, as the world was striving to recover from horrific conflict and to restore and strengthen democracy: “The first and most essential charge upon higher education is that. . . it shall be the carrier of democratic values, ideals, and processes” (*Idem*: 3). As the Truman Commission stated clearly and unequivocally, this “public good” mission of colleges and universities is premised on a close relationship between higher education and the strength and sustainability of democracy itself (Gilbert and Heller 2010).

So, what should this relationship look like over time, and what does it imply for the governance of colleges and universities? As in other parts of the world, colleges and universities have tended to be among the most enduring and adaptable institutions in American society, spanning many generations. Indeed, a number of institutions of higher learning in the US are older than the nation itself. In order to fulfil this “public good” mission over the long term, therefore, a key question is the extent to which institutions of higher education can and should have institutional autonomy with regard to existing governmental and political influences at all levels (federal, state and local). In other words, how and to what extent should colleges and universities be free to manage their own internal affairs and curricula without government interference or micromanagement? In answering this question, to what extent does it matter if an institution is “public” or “private”?

This concept of institutional autonomy in American jurisprudence has been tied in recent decades to the concept of “institutional” academic freedom (Rabban 1990). While we often think of academic freedom with regard to the rights and responsibilities of individual faculty members, it becomes more complicated when we think about the rights and responsibilities of the institutions themselves. In order for higher education to comprehend and fulfil the “public good” aspect of its mission, however, it is essential to come to grips with an understanding of the nature and extent of institutional autonomy and how it relates to academic freedom and the educational mission. In an era in which democracy itself seems to be under attack from both outside and within, it is perhaps not surprising that there are serious challenges to the very idea of institutional autonomy (which as noted above is sometimes referred to in the US as “institutional” academic freedom, as distinguished from the academic freedom rights of individual faculty members within the academy). These challenges also present opportunities for public dialogue about the evolving role of higher education in a democracy, at a time when higher education plays an arguably more important and pervasive role than ever in society.

THE LEGAL CONCEPT AND COMPONENTS OF INSTITUTIONAL AUTONOMY

In American law, what have now become known as the “four essential freedoms” of institutions of higher education were first articulated by the US Supreme Court in a concurring opinion by Justice Frankfurter in the 1957 case of *Sweezy v. New*

Hampshire (354 US 234, 263 (1957))⁷³. Under circumstances that foreshadowed the culture wars that continue to play out today in our societies (including in higher education), the case involved a professor's refusal to answer questions about a lecture delivered at the state university where he taught – at a time when there were deep concerns about communist influences in higher education and in American institutions generally. Reflecting international concerns about the role and importance of higher education, Justice Frankfurter quoted a conference statement issued by scholars from the Union of South Africa asserting that:

It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment and creation. It is an atmosphere in which there prevail "the four essential freedoms" of a university – 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. (ibid. at 263).

The "four essential freedoms" set forth in Frankfurter's concurrence have been reiterated numerous times in subsequent cases, which have pointed out that institutions as well as individuals need autonomy in order to fulfil their educational mission (see, for instance, *Keyishian v. Board of Regents* 1967: 603). For example, in a 1985 case in which a medical student challenged his dismissal by a university on academic grounds, the Supreme Court declared that "academic freedom thrives not only on the independent and uninhibited exchange of ideas among teachers and students. ... but also, and somewhat inconsistently, on autonomous decision making by the academy itself" (*Regents of University of Michigan v. Ewing*, 474 US 214, 226 n.12 (1985)).

While much has been written about whether and to what extent the autonomy of institutions relies upon, or conflicts with, the academic freedom of individual faculty members, the case law as well as legal scholarship in the US seems to suggest that both forms of freedom are necessary in order to safeguard the fundamental educational mission of colleges and universities (Kaplin and Lee 2013). This legal framework essentially reflects and reinforces the norms and values of higher education in the US. Organisations devoted to higher education have for many years promoted the primacy of educational institutions in making decisions about matters pertaining to their academic missions (see, for example, American Association of University Professors, American Council on Education, and Association of Governing Boards of Universities and Colleges 1966).

The governing boards of individual institutions (such as James Madison University) or institutional systems in the United States (such as the University of North Carolina or University of Texas System⁷⁴) have long played a critical role as the gatekeepers

73. The standard format for a U.S. Supreme Court decision citation is as follows: the first number represents the volume in the official United States Reports in which the decision is found, the number after the case name represents the first page where the case can be found in that volume, the third number represents the exact page for the quoted citation, and the date in parentheses is the year in which the case was decided.

74. Many states in the United States have their own centralised "systems" of public higher education that are overseen by system offices, some of which are based on institutional types (for example, systems of four-year institutions or of community colleges within a state). While there is a great deal of variety among the US states, system offices frequently co-ordinate policy, budgeting and other aspects of support for the institutions within those systems.

of this mission with regard to other governmental bodies. Governing boards of higher education institutions and systems have fiduciary responsibilities for the institutions for which they provide leadership, and have a responsibility to protect the educational mission of these institutions from possible interference – which can sometimes come from government officials or bodies, and at other times from other sources outside government and the academy (such as wealthy private contributors who want to have a say in how institutions are managed and operated). This institutional autonomy is of course not absolute, particularly for public institutions that are considered in some sense to be arms of the state. For example, tensions can arise between governing boards of public institutions or public systems of higher education on the one hand, and state governments on the other, when a state governor or state legislature seeks to drastically reduce funding for core educational needs – or to dictate the types of courses that will be taught or the types of individual administrators or faculty members who will be hired. State laws in the US often provide parameters that outline the authority and responsibilities of public university or system governing boards that help to clarify expectations and roles on all sides, and accrediting bodies review these parameters and relationships to ensure that they protect the educational mission.

The federal government in the US also regulates in a wide variety of areas that impact colleges and universities' educational missions and choices, such as with regard to the civil rights of students both in and outside the classroom. State governments often legislate for public or "state" institutions on matters with a direct impact on the educational mission – such as getting involved with admissions criteria for entering students (for instance, through plans that require admission of students with particular class ranks based on grade-point averages) or with requirements applicable to transfer students who wish to move from community colleges to four-year institutions within the same state. Regional and discipline-specific accrediting bodies also set standards on a wide variety of matters; institutions must adhere to these standards to maintain accreditation in good standing (and eligibility for federal financial aid for their students). The National Collegiate Athletic Association (NCAA) is a prominent example of a nationwide, non-governmental entity that creates and enforces rules that have an impact on educational decision making by colleges and universities by setting academic eligibility requirements for varsity student-athletes (individuals who participate in officially sanctioned teams that represent their respective colleges and universities in intercollegiate competition in the US). The waters are muddied even further when considering the range of laws and regulations that apply to institutional study-abroad programmes or branch campuses in other countries.

Given that these many forms of limitations already exist with regard to the autonomy of colleges and universities, how and when should lines be drawn to protect these institutions from undue interference (governmental or otherwise) with regard to decisions about the educational mission? What types of threats currently exist that could undermine the "public good" aspect of this mission as heralded by the 1947 Truman Commission, and the importance of this "public good" commitment to the long-term health of democracy itself? To answer these difficult questions, it is helpful to explore each of the "four essential freedoms" identified

by Justice Frankfurter in the *Sweezy* case and the types of challenges that each of them currently face – from both outside and within the academy.

CONTEMPORARY CHALLENGES TO INSTITUTIONAL AUTONOMY

Since institutions of higher education operate in many ways as microcosms of their societies, it is not surprising that the great political and social debates of the times (including debates known as the “culture wars” about hot-button topics involving race, gender, etc.) are reflected in conflicts with and within colleges and universities. As the sources of funding for institutions of higher education have evolved (with more money coming from private corporations, foundations and individuals rather than from the federal or state government, for example), so too have the “strings attached” or expectations related to such funding. Thus, threats to institutional autonomy arise from both outside and inside the academy, and underscore rising public scepticism about institutions and expertise in general. Recent public opinion polls in the US reveal declining confidence in higher education in general, as well as a growing partisan divide on that front (Jaschik 2018).

The dizzying pace of change in technology and information dissemination has exacerbated these threats in a way never previously seen. For example, the growth of social media in recent years has had an enormous impact on campus controversies by making it exponentially faster and easier for campus incidents to mushroom into national and international news events within hours if not minutes. The quaint image of higher education as the sheltered, isolated ivory tower is long gone; the inner workings and decision making of colleges and universities are now instantaneously exposed for the world to see through Twitter, Instagram, Snapchat, etc.

Technology that can make the delivery of educational services more efficient and widespread (such as asynchronous online educational programming) can also itself pose a threat to the element of human judgment and discretion that has long been a centrepiece of academic freedom. As it becomes easier and more financially attractive to standardise course content for hundreds or thousands of students on and off campus, it also becomes more tempting to eliminate individualised decisions about course content and pedagogy. These technological developments could not have been easily foreseen by the founders of the early republic or by the founders of America’s oldest educational institutions, but they have changed the nature, speed and breadth of human interactions in ways that create substantial challenges to institutional autonomy and academic freedom.

WHO MAY TEACH?

The first of the four freedoms listed by Justice Frankfurter is the freedom to determine who may teach in higher education. The academic disciplines within higher education have historically developed standards for sound pedagogy and scholarship within each field of study (Bowen and Tobin 2015). Nevertheless, disputes about the teaching and research of professors with controversial viewpoints have spilled over into broader public discourse for decades and are nothing new; the American Association of University Professors was founded over a century ago in

large part because of such disputes in the academy and the perceived need to protect faculty academic freedom with tenure and due process (Tiede 2015).

The threats to institutional decision making today with regard to the selection and retention of individual faculty members may not be new in form, but they are in some ways more organised and fast-moving than ever. Protests with regard to controversial statements or viewpoints expressed by faculty members are shared widely on the internet and can quickly spiral out of control and put pressure on institutions to make snap judgments to calm such firestorms. Objections to the comments or viewpoints of such faculty members might originate with students on campus but can quickly spread to other individuals and organisations outside the academy who have their own agendas to pursue.

In one such case, the University of Illinois spent over US\$2 million to settle a dispute with Professor Steven Salaita; the university had rescinded a job offer to Professor Salaita after he posted a series of tweets that were perceived to be anti-Israel (Cohen 2015). The tweets attracted an angry backlash from many people on and off campus, leading to pressures from multiple constituencies to retract the job offer. In another recent case, the hiring by George Mason University's Antonin Scalia Law School of US Supreme Court Justice Brett Kavanaugh to co-teach a course on the origins of the US Constitution at a programme in the United Kingdom was met with criticism from student activists as well as parents, alumni and others beyond the institution who were upset by allegations of sexual assault against Justice Kavanaugh that had arisen in his Senate confirmation hearings (Stanley-Becker 2019). Kavanaugh's detractors used social media to reach a much broader audience with their concerns. These tactics have put additional pressure on institutions that employ faculty members with controversial backgrounds or perspectives.

As assertions about "political correctness" or liberal bias in American higher education have become louder and more pronounced, advocates have turned to state legislatures to take action to require political "balance" in the hiring of faculty members. For example, a bill introduced in Iowa in 2017 would have required that no professor or instructor could be hired if his or her most recent party affiliation would "cause the percentage of the faculty belonging to one political party to exceed by 10 percent" the percentage of the faculty belonging to the other dominant party (Flaherty 2017).

While such bills purport to support intellectual or ideological diversity in higher education, the forced requirement of political "balance" would essentially impose quotas based on political beliefs and represent a significant encroachment on institutional autonomy in hiring based on traditional academic criteria. Even if such bills fail to pass, the mere introduction and consideration of such legislation can have a chilling effect on institutional hiring that might draw the ire of state legislators (who have some responsibility for appropriations for public higher education institutions in their states).

Given that American colleges and universities are also turning to other sources of funding outside of government – such as individual donors, corporations and foundations – threats to institutional autonomy or academic freedom can also be

tied to the demands or expectations that arise from these other funding sources. In one recent instance, for example, the University of Alabama returned a US\$ 21.5 million gift to a donor after the donor allegedly sought to interfere with decisions about the hiring of individual professors (Knox and Jarvis 2019). Donor agreements in support of specific academic programmes in American higher education are drawing increased scrutiny – especially with regard to any potential limitations on, or external approval or review of, faculty hiring decisions within such academic programmes. In many respects, concerns about the influence of external sources of funding in higher education reflect similar concerns about the influence of money in American politics and on US government officials who rely on such funds for campaign support.

WHAT MAY BE TAUGHT

The great political divides of our time are also manifested in controversies over what may be taught in the classrooms of American colleges and universities today. Sometimes the mere mention of course titles such as “Black Lives Matter” or “How to be Gay” has garnered significant public attention (Denby 2017; Halperin 2012) and ignited firestorms of criticism, particularly from forces outside the academy, who argue that students are being indoctrinated by left-wing faculty members. Choices of particular books, readings or other assignments that have traditionally been protected within the purview of faculty academic freedom and institutional autonomy have also been called into question, with some students indicating that they should not have to read or be subjected to authors or viewpoints with which they vehemently disagree. While this attitude may be contrary to the spirit of higher education as a robust arena for the consideration of competing ideas, it reflects a consumer mindset as well as a culture of entitlement – both of which have grown along with the heavy public emphasis on the idea of higher education as a private good and a means to an end (namely a job).

As has been the case with faculty hiring decisions, some policy makers (as well as other individuals and organisations outside the academy) have called for legally mandated “balance” in the curriculum by arguing that all viewpoints and theories should be taught on an equal footing – in some instances regardless of the standards for sound pedagogy and scholarship within particular academic disciplines. These calls for balance have often arisen in areas such as history or political science but have also impacted the natural sciences (for example, with calls for teaching “creationism” alongside “evolution” in biology curricula).

While American higher education has been grounded in the idea of an open marketplace of ideas and the search for truth, that grounding does not translate into the result that all ideas or perspectives can or should be assigned equal value or merit. The point of the search for truth is that sound ideas and theories – based on facts, evidence, research and sound reasoning – will be tested against other ideas and theories and will be refined and prevail over time. The very idea of learned expertise of any kind is undermined by the fallacy that all ideas are equally meritorious and worthy of serious study, even if some of those ideas have no basis in fact, evidence or credible scholarship.

Other threats to institutional autonomy with regard to what may be taught are cloaked in the name of standards that create efficiency for students. Such standards can also have a corrosive effect on institutional autonomy and academic freedom if they are unduly rigid and not subject to the review and oversight of higher education faculty members. For example, efforts to reduce entry requirements at individual institutions through forced acceptance of specific Advanced Placement test scores or credits from other institutions may seem innocuous and even noble, as they can help to reduce time-to-degree and student debt. If individual institutions and their faculty members are not allowed to have a voice in making such decisions, however (based on their sense of the suitability of such standards for promoting success in their own subsequent curricula), they may rightly be concerned about the integrity of the academic programmes and requirements for which they are responsible (Neem 2019).

Likewise, the push to recognise and give credit for demonstrated “competencies” in higher education rather than simple “seat time” in classes has many advantages in terms of efficiency and flexibility for students, but some safeguards are essential to ensure that students are actually learning in ways that institutions and faculty members believe are important to their overall intellectual development. In other words, the ways in which institutions of higher education define learning may go beyond mastery or memorisation of specific and measurable facts, skills or other subject matter content. These are the types of judgments about the quality of education that have long been exercised by institutions (and their faculty members) under the umbrella of autonomy and academic freedom.

HOW THE SUBJECT MATTER WILL BE TAUGHT

The culture wars that have torn at the fabric of democracy in the 21st century have also played out in controversies over pedagogical techniques in a variety of academic programmes and courses. Many students have expressed concerns with teaching methods that might require them to express or debate ideas that might be perceived as making other classmates uncomfortable (especially with regard to issues of race, gender or political beliefs). In recent surveys, many students report that fears of offending classmates prevent them from expressing themselves fully in classroom settings (Knight Foundation 2019). Students are divided about protecting the extremes of free speech on college campuses (such as hate speech) due to concerns with diversity and inclusivity, with these divisions taking shape largely along racial, gender and political grounds (*idem*).

Many years ago, before the advent of social media, this author can recall an instance in which a political science professor walked into a classroom and barked orders at the students to separate themselves in the classroom based on race, religion, gender and other personal characteristics. After dramatically leaving and re-entering the room, the professor introduced the topic of authoritarianism to the class and subsequently explained the power of this pedagogical example. It is hard to imagine a faculty member taking such a chance today knowing that the entire episode could be recorded, perhaps edited in ways that do not fully describe the context, and then posted on the internet, all within a matter of minutes.

Even within classrooms, students have instant access to the world beyond campus through the internet. In some instances in the US, students have secretly recorded class discussions or projects in which controversial approaches are utilised, and have shared such recordings online with the world (American Association of University Professors 2018). Self-described “watchdog” organisations such as Turning Point USA have also posted profiles of faculty members on public “watchlists” because of the perceived “radical” liberal bias of such faculty members (Seacat 2019). Knowing that students now have this capability with smartphones or electronic tablets at their fingertips, and that students can also easily connect with such national organisations, some faculty members may be more reluctant to attempt to employ provocative teaching techniques that will force students out of their comfort zones (Lukianoff and Haidt 2018: 138).

Once again, external funding for academic programmes and courses can also pose threats to institutional autonomy and academic freedom. For example, in recent years there have been numerous concerns raised by the federal government in the US about Confucius Institutes on American campuses that are funded by the Chinese government (Redden 2019). These Confucius Institutes have been perceived as a form of Chinese soft power, allegedly infiltrating American minds and hearts through the particular ways in which China (and its government, history, economic system, human rights record, etc.) is portrayed. Increased attention has been paid to the agreements that outline how these Confucius Institutes will operate, and in many instances they are now being shut down due to US government concerns about Chinese state censorship of materials and curriculum (*idem*). Of course, similar concerns have also been raised by some faculty members and by some of the American institutions themselves.

Technological innovations in course delivery can also play a role in this regard, for both good and for ill. For example, superb classroom instructors may now be able to reach and interact with more students with the advent of online education. By the same token, when institutions seek to use online education with a primary focus on profit-making motivations, they may base programmatic decisions on economic rather than intellectual criteria. The teaching of controversial or unpopular ideas may be disfavoured in such circumstances. As is true in many settings, technology can be used in both positive and pernicious ways – and the new possibilities it brings to higher education require intentional decision making based on sound educational principles.

WHO MAY BE ADMITTED TO STUDY?

As American higher education faces increasing scepticism with regard to its role in promoting social mobility and the “American dream”, questions about how decisions are made with regard to who may be admitted to study have become politically potent. The admissions process, historically seen as within the purview of individual institutions, has come under widespread scrutiny from many different angles. Questions about how merit in admissions is and ought to be defined have been hotly disputed, at a time when higher education is more important than ever as a gateway to advancement and leadership in a multitude of careers.

In the past several decades, debates about so-called “affirmative action” in higher education admissions have bled into the courts as well as state legislatures. In spite of repeated US Supreme Court rulings that have acknowledged the educational benefits of diversity and the justification in certain circumstances for consideration of race as one of many factors in a holistic admissions process (*Grutter v. Bollinger* 2003), several states have prohibited the consideration of race or gender in the admissions process through ballot initiatives and state constitutional amendments (Ballotpedia 2019). Some states have mandated that public institutions of higher education admit students on the basis of class rank in high school (Flores and Horn 2015). These models remove much of the discretion previously exercised by admissions offices when assembling an entering class and are based on external judgments about the definition of “merit” that should be employed in admissions decisions. These policy debates have also once again reflected hot-button cultural issues related to race, ethnicity, gender and socio-economic status, and to perceptions about whether and to what extent students from all backgrounds have truly equal access to higher education.

The recent “Varsity Blues” scandal made national headlines in the US when it was disclosed that wealthy parents had paid many thousands of dollars to recruiters in order to gain access for their children to highly selective institutions (Medina, Benner and Taylor 2019). As part of this apparent scam, students were falsely portrayed as having special athletic skills in order to justify their admission to these elite colleges and universities. The scandal has shaken the general public’s faith in the integrity of admissions processes and decisions and led to calls for more oversight and regulation of the admissions process in higher education. While it is too early to foresee the full long-term impact of the scandal, it has led to increasing scepticism of arguments in favour of institutional autonomy with regard to who is admitted to study. Of course, such autonomy must have limits based on the need to provide a level playing field for applicants for admission that is free from discrimination, bribery of officials with admissions responsibilities or other forms of fundamental unfairness. This type of corruption in the system underscores the perception of many constituencies that admissions into elite institutions is a high-stakes endeavour with significant implications for the lives and careers of individual applicants. Under such circumstances, it is not surprising that forces outside of higher education would seek to peer behind the admissions curtain and propose increased regulation of how (and by whom) such decisions are made.

Finally, growing concerns about national security issues within higher education (with regard to access to sensitive research and valuable intellectual property, for instance) have led to calls for greater government scrutiny with regard to the admission of international students at US colleges and universities. Visa restrictions have been tightened significantly, particularly with regard to students from countries such as China that are perceived to be using some students for covert espionage purposes (Zamudio-Suarez 2018). While institutions of higher education need to take such concerns seriously, they must also balance such concerns with a commitment to ensure that students and faculty members are not racially profiled in ways that foster discrimination. Regulations in this realm, if not carefully crafted to focus on specific and identifiable national security risks, can have a chilling effect

on the admission of students from foreign countries and thus represent another threat to institutional autonomy with regard to admissions decisions.

CONCLUSION

Why do these challenges to the “four essential freedoms” of institutional autonomy matter to a healthy democracy? One could argue that the intrusion of political debates and influences into the academy in fact reflects democracy at work through the exercise of the will of the people. On the other hand, the traditions of institutional autonomy and academic freedom have served as buffers against rapidly shifting political and cultural winds and whims of any given moment in time. Higher education has prided itself as standing for a noble purpose – as protecting and supporting a marketplace of ideas and search for truth that are based on the scholarly expertise and academic rigour developed across the disciplines over time and that transcend contemporary political and social debates.

Colleges and universities have always been evolving “works in progress” or creatures of their times and circumstances to a significant extent – reflecting the temporal political and social tensions of the society of which they are a part. Yet at their best these institutions are also beacons of reason, inclusion, hope and a sense of community in which people from all backgrounds are valued and respected, and in which all such individuals have the opportunity to develop to their full potential through education. The pursuit of this lofty set of ideals has been underpinned by practices in the US that have been intended to shield educational institutions (even public institutions) from too much overt political control. It is for these reasons, for example, that accreditation as a form of quality control for US colleges and universities has largely been the province of peer rather than governmental review – although there is of course some government oversight of the accreditation process.

Institutions of higher education are far from perfect – after all, the enterprise of education is inherently messy because it involves the many different ways in which individuals learn and develop both intellectual and interpersonal skills. Institutional autonomy cannot and should not be absolute for many reasons – for example, under American law institutions that receive any federal funding are not permitted to discriminate on the basis of race, gender, disability, etc. The focus on the search for truth does not mean that all decisions made by or at institutions of higher education should be immune from review.

Higher education is an unusual setting, however, in that its very mission necessarily embraces and entails challenges to the status quo in all areas of society – including challenges to traditional orthodoxy in politics and government. This mission cannot be truly fulfilled when undue control is exercised by any organisations or forces outside the academy. As the world becomes more interconnected through technology and other means, it becomes all the more imperative to find ways to protect some degree of institutional autonomy to ensure the integrity of the educational mission. Ironically, the only way for institutions of higher education to support and sustain democracy over the long run is for those very institutions to have some protection and separation from the political and social leaders and whims of any given moment in time.

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Academic freedom and institutional autonomy: examples and challenges

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ABSTRACT

This paper aims to analyse the concept of institutional autonomy and academic freedom within the MENA region, taking into consideration three countries as case studies – Tunisia, Morocco and Algeria – which have seen a reform process aiming to develop a good governance system related to higher education, to improve quality assurance mechanisms and ensure autonomy and responsibility. The recent political changes in the MENA region give hope that university governance in the region will be more democratic, transparent and efficient in the long term. However, in the short term, the current transition that some countries are experiencing, such as the three above, are showing some difficulties and challenges that the paper discusses. The three countries, each with their specific features and social and political perspectives, share some structural commonalities in terms of the need to improve university autonomy (both academic and financial autonomy) and reinforce good governance, which also implies strengthening quality assurance mechanisms.

Keywords: institutional autonomy; academic freedom; reform; university governance; Maghreb region.

INTRODUCTION AND CONTEXT

One of the key elements that has been the recent focus of higher education reform worldwide is university governance. This concept describes how universities and higher education institutions define their goals, implement them, manage their institutions and monitor their achievements. The overall framework of the system and the interaction between the institution and public authorities are crucial in defining university governance (World Bank 2012). Autonomy concerns the relationship between each higher education institution and the public authorities. It measures how freely higher education institutions can take decisions in the context of the rules and regulations that shape each higher education system. There are three sub-dimensions of autonomy that mainly characterise the university:

- ▶ **academic autonomy:** degree of freedom in decision making on academic issues;
- ▶ **financial autonomy:** degree of freedom in decision making on financial issues;
- ▶ **human resources autonomy:** degree of freedom in decision making on human resources management.

Institutional autonomy and how it is perceived by the university community are considered important drivers of change: how institutions are managed is one of the most decisive factors in achieving their goals.

The recent political changes in the MENA region give hope that university governance in the region will be more democratic, transparent and efficient in the long term. However, in the short term, the current transition that some countries, such as Tunisia, are experiencing will add some fiscal burdens that could impact negatively on their ability to provide high-quality higher education. This problem is not unique to the MENA region, but it is particularly acute there, as student numbers have risen dramatically in the past few decades. This rapid expansion has increased the pressure on already scarce public finances, a situation exacerbated by the global economic crisis and the region's political instability. We refer in particular to three higher education systems in the region: Tunisia, Morocco and Algeria, where reforms or trends of changes related to the higher education system are in place specifically with regard to institutional autonomy and academic freedom.

There is a worldwide tendency to grant more autonomy to universities to be responsive to the changing needs of social, economic and labour market environments. This has been coupled with developing regulatory frameworks to enable the state to provide quality assurance and develop the capacity to meet national goals. The Tunisian and Algerian higher education systems are mainly considered to be more centralised systems, whether public or private institutions, where less or partial university autonomy is experienced compared to other countries in the MENA region.

Generally speaking, the Maghreb countries, particularly Algeria, Morocco and Tunisia, have higher education systems that espoused traditional missions: conservation or cultural reproduction and elite training for the state and society. However, from the 19th century onwards, under the impact of colonisation and the protectorates, these systems were overtaken by a new "modern system". During the struggles for independence, elites from the "modern system" "inherited" the state and the administration. After independence – in 1956 (Morocco and Tunisia) and 1962 (Algeria) – the "modern systems" were developed according to national objectives. Under the influence of social demand, massification, an economic crisis and undergraduate employment, these systems were in crisis by the 1980s, and the question of reform arose. The Maghreb region has indeed witnessed a great expansion in higher education in the last few decades. The number of institutions and enrolment rates have risen, corresponding to a larger youth population, and there has been a rise in social demand for higher education and reform initiatives and explicit policy changes undertaken by governments. All these countries underwent reform of their higher education systems, yet they pursued distinct models of reform with different implications for the role of the state. Most of the countries in the region worked on improving access and quality, emphasising the importance of establishing a knowledge economy and increasing global competitiveness. In the early 2000s, these higher education systems introduced some reforms taken from the Bologna Process. These reforms aimed to offer an open economic environment for training through the LMD (Licence, Mastère, Doctorat – Bachelor,

Master, Doctorate) approach, and to introduce quality assurance procedures, develop research and public-private partnerships, diversify funding streams and modernise institutional governance.

In particular, the concept of quality assurance emerged, which referred to review procedures undertaken by higher education institutions to safeguard academic standards and promote quality learning for students. The higher education system is still primarily public education, but with a steady increase in the number of private institutions. The concept of quality assurance, applied to governance of the higher education institutions, and to teaching and learning, research and openness towards the economic environment, is now widely known in the region and in both public and private universities. As Algeria and Tunisia develop their quality assurance systems, they shall grant more autonomy to universities, enabling them to be able to respond to their local needs and better serve their students and their communities.

However, despite protests erupting in the region in recent years with the Arab Spring's call for equity, democracy and autonomy, the situation in Algeria and Morocco with regard to academic freedom remained more or less stable, with some restrictions that either remained the same or deteriorated in some cases, as governments increasingly tried to tighten their control over higher education institutions. This occurred despite the fact that both these countries have taken great steps forward in developing their quality assurance systems. In Tunisia, by contrast, the level of freedom increased in terms of teaching, free speech on campus and publication.

Traditionally defined, academic freedom endows faculty with considerable autonomy in research and teaching agendas. Today, however, the ability of academics to conduct their work without interference is under attack due to the changing nature of academic work and to new economic circumstances that have forced universities to act in different ways (Tierney and Lanford 2014). Globalisation is not merely an economic phenomenon that impacts on the way countries do business or on how corporations acquire capital and labour. Globalisation also changes the purpose and function of academic work. We shall argue that academics are seen less as individuals with the academic freedom to explore different topics, and more as workers to advance the economic interests of the country. This is what we will define as a relatively new threat to academic freedom, whereas traditional threats to academic freedom are occurring in much of the non-industrialised world.

Academic freedom and institutional autonomy are key features of democratic societies. The Fundamental Principles of the Magna Charta Universitatum (1988) underline the need for institutions to be independent of political authority and economic power, whereas the preamble to the Council of Europe recommendation on the responsibility of public authorities for academic freedom and institutional autonomy (Council of Europe 2012) states that "higher education is crucial to the development and maintenance of the democratic culture and is indispensable for democratic societies to become a reality as well as for the social cohesion of European societies".

CASE STUDY OF TUNISIA – FEATURES AND CHALLENGES

In an effort to promote continuous improvement in the quality of higher education and scientific research (in harmony with the socio-economic environment), the Tunisian Government, as part of its institutional reform programme, focuses on the progressive empowerment of educational and research institutions, and, consequently, on enhancing quality assurance in all its forms. The promotion of stronger quality assurance, through the use of evaluation exercises and the dissemination of the results of such evaluations, as well as through the accreditation of courses and the acknowledgement and recognition of the value of research, represent the main features of the higher education reform process in Tunisia.

The establishment of the National Evaluation, Quality Assurance and Accreditation Authority by Decree No. 1719-2012 dated 14 September 2012 (Boukhtir et al. 2017), which is responsible for ensuring the quality of higher education and research and the compliance of the education system with internationally recognised standards, represents an important element of the higher education reform currently ongoing in Tunisia. Furthermore, the Tunisian Ministry of Higher Education and Scientific Research established a competitive fund – “programme quality support” – under which higher institutions, research centres and universities select, develop and carry out projects that meet their own needs in the context of national priorities.

From the point of view of academic freedom, Tunisia’s National Constituent Assembly adopted a constitutional provision guaranteeing protection of academic freedoms. Article 32 of the new constitution states that “academic freedoms and freedom of scientific research shall be guaranteed” and requires that “the state shall seek to provide the necessary means to develop scientific and technological research”. With the new Article 32, Tunisia joins at least 20 other states that include explicit protection for academic freedom or academic liberty in their constitutions. The new Tunisian constitution is the culmination of a revolt against the regime of former president Ben Ali, which was ousted in January 2011. The protestors in the Arab Spring uprising in Tunisia were joined by many university lecturers and students who hoped to see an end to censorship. But without backing from the law, academic freedom in Tunisia remained under threat. The inclusion of academic freedom in Tunisia’s constitution sent an important positive message to other states in the region and elsewhere that they should similarly demonstrate commitment to quality higher education by enshrining academic freedom and institutional autonomy in their constitutions. The new constitution was the result of the positive democratic transition that Tunisia is undertaking.

The law of 2008 introduces the notion of autonomy, but without defining it precisely. It actually promotes a concept of autonomy as the advent of a managerial university capable of developing and implementing strategies. The decree of 2008 in fact allowed universities to switch their legal status from the general case of “public institutions” to the specific “public institutions of scientific and technological nature” if they complied with financial, budgetary and managerial requirements (Republic of Tunisia, Presidency of the Government 2008). This specific legal

framework is similar to the French legislation and allows universities more administrative and financial flexibility and autonomy. So far, only the Virtual University of Tunis has met the stringent criteria established for this status. Other Tunisian universities are waiting for the validation of the new statute.

The 2011 revolution has, however, brought back to the fore a conception of autonomy as the university's ability to emancipate itself from external, political and religious pressures. Autonomy is understood here as strengthening academic freedom. The concept of autonomy as strengthening of academic freedom first appeared in the revision of the modes of appointment of university leaders (Republic of Tunisia, Presidency of the Government 2011): election of university presidents; election of directors of higher education institutions (and not only deans), with broadening of the electoral base; reaffirmation of the role of the university council and the enforceability of its decisions. However, if from a legal perspective, Tunisian universities should be autonomous, in reality, universities share the same perception of a relative lack of academic autonomy in curriculum development, in the introduction of new programmes and in the allocation of hours. Law No. 2008-19 of 25 February 2008 on higher education on university autonomy (Republic of Tunisia, Presidency of the Government 2008) seems therefore still not entirely applied.

At the level of human resources, public universities have no discretion regarding the hiring and dismissal of administrative or academic staff. The university must first submit its needs to the ministry. However, contractors can be hired freely. Regarding the evaluation of staff, public universities stress their total lack of autonomy in determining the salaries of academic and administrative staff or the possibility of introducing a performance-based salary (there is only an attendance bonus, which seems to be fairly consistent given the low salaries). In terms of financial autonomy, public universities are distinguished by their ability to employ a multi-year expenditure programme (medium-term expenditure framework) and to finely distribute the budget after a global allocation. However, the four-year programme contracts concluded between the universities and the ministry to develop a strategy and establish a medium-term expenditure framework (MTEF) were suspended in 2010. This financial autonomy of the universities in the establishment of their budget is nevertheless largely constrained by a priori control of any expenditure. This shows, then, that Tunisian universities still have work to do to improve their institutional autonomy and academic freedom even though a national reform process has been put in place and each university is making efforts in their strategic orientation to focus on improving autonomy, quality assurance and governance.

Finally, the Tunisian university is experiencing a "crisis of growth", which can be described as "sustainable" without any excess, and for the following two reasons. On the one hand, the system by which the university was organised "has shown its limits" and cannot, therefore, be maintained in its current state. On the other hand, Tunisian universities have to face new challenges other than those it has hitherto known, such as fruitful autonomy, accreditation and high-level research impact (Haddad 2018).

CASE STUDY OF MOROCCO – FEATURES AND CHALLENGES⁷⁵

Moroccan higher education has witnessed many ups and downs since Morocco obtained its independence in 1956. In this regard, many reforms have taken place in the country, aimed at enhancing the productivity of the education system and reducing the already wide gaps between the educated elite and the uneducated masses. Moroccan higher education operates as a public domain under the responsibility of the state, and the 1975 law of higher education is administered directly by the Ministry of Higher Education (Ammor et al. 2017). This is thus a reflection of the French model. This law governs all the other higher education institutes except Al Akhawyn University, which was not subject to this law since it was the only private university in Morocco at this time.

The 1975 law spells out the purpose of public universities, establishment procedures, their history in Morocco and the procedures for recruiting professors and staff. It also stipulates procedures for curriculum development and student evaluation. In 1999, the government laid out the philosophy and policy for the reform of the Moroccan education system in a document entitled The National Education and Training Charter. Statute No. 01-00 of May 2000 (ibid.) aimed to establish the educational, administrative and financial autonomy of higher education centres. This decree calls for the implementation of three key measures:

- ▶ the establishment of an accreditation programme in public and private institutions of higher education;
- ▶ the establishment of an assessment method;
- ▶ the establishment of apparatus to evaluate the assessment and regulation of the system.

An Emergency Plan for 2009-12 was also created to promote the swift implementation of these reforms, which relates primarily to higher education (university governance and teaching) and to academic research. As public institutions with organisational, financial and administrative autonomy, universities in Morocco enjoy a certain degree of educational, scholarly and literary autonomy. University presidents are selected by the King on the recommendation of the minister for higher education. A university president is assisted by vice-presidents with particular responsibilities, such as international co-operation and scientific research (El Masrar 2015).

Each university, as well as their faculties, has a general council – made up of deans – and elected or appointed members from among the heads of department. The responsibilities of the councils are set by committees such as the academic, managerial and budgetary control committees.

The presidents, or deans, of each university are appointed by the King following a call for applications and an appearance before a selection panel. The appointment is for four years, with the possibility of applying for a second term. Despite these efforts undertaken in the path of democracy and transparency, Morocco's higher education system has yet to eliminate numerous shortcomings. In this respect,

75. For additional literature regarding the Moroccan case please refer to Yechouti (2017).

the Higher Council for Education, Training and Scientific Research created the new 2015-30 strategic vision that aims to achieve the following objectives by 2030: equity and equal opportunities, quality for all, individual fulfilment and social progress (Higher Council for Education, Training and Scientific Research (HCETSR) 2015).

To achieve these objectives, this new reform for the period 2015-30 provides for profound structural changes and curricula reform. It seeks to establish a more coherent and flexible structuring of the components and cycles of tertiary education, notably the strengthening of the LMD system and vocational training programmes, the institutionalisation of bridges between the various education and training cycles, including equivalences of diplomas for non-university programmes, and the consideration of the skills and qualifications required by the labour market.

This draft framework law provides in particular that the legal framework for assessment and quality assurance will be subject to an overall revision in order to ensure a regular and systematic assessment of all the components of the system, that internal assessments will be carried out and that the Higher Council will remain responsible for carrying out external assessments. Article 56 of the draft framework law specifies that these assessments must concern the degree of success in achieving the objectives stated in the education system, the quality of services provided to users, the pedagogical engineering components, including training programmes and teaching methods, qualitative and quantitative assessment of the knowledge, skills and faculties acquired by learners, and governance.

This brief analysis of the new LMD educational system shows that Morocco is an example of convergence with the European systems of higher education and a good partner for Euro-Mediterranean universities.

CASE STUDY OF ALGERIA – FEATURES AND CHALLENGES

According to Article 53 of the Constitution of Algeria, the state is responsible for the organisation of the education system. The right of access and free education is guaranteed for all Algerians “under the conditions stipulated by the law”. In practice, education in Algeria is nowadays totally free for its citizens, from primary school to university.

At the time of independence, illiteracy in Algeria affected 85% of the total population of about eight million, while the higher education system was trying to create and install a genuine “Algerian” teaching system, also as a way to reaffirm its independence.

The higher education system in Algeria has witnessed two main university reforms (in 1971 and 2004) and the 1999 law on higher education (Saidani et al. 2017). The 1971 reform changed the structure of the universities from institutes to faculties, while the LMD reform in 2004 served to establish the Bachelor-Master-Doctorate system more similar to the European higher education structures (*idem*).

Algeria has a wide range of higher education institutions, from universities to higher education institutes, to “écoles normales” and “écoles supérieures”. They are also defined as social, cultural and professional public establishments. In addition to universities, the higher education system also includes university centres

(composed of institutes) and out-of-university schools, that is, institutes of sciences and applied technology, higher national schools and the higher educational schools that train teachers for primary, middle and secondary school.

The most recent policy update was the LMD reform launched in 2004, which aimed to provide universities with new and updated tools and was mainly motivated by the need to respond to society's expectations and to better align curricula with the job market's demands. In order to reach its goals, the LMD reform:

- ▶ helped universities to move to greater internationalisation by implementing a Bachelor-Master-Doctorate system;
- ▶ sought to enhance university governance and autonomy;
- ▶ sought to provide better-quality education.

Within this national reform process, the CIAQES (Committee in charge of the Implementation of Quality Assurance in Higher Education Institutions) was officially established in 2002 and launched internal quality assurance mechanisms and provided higher education institutions with a clear quality assurance guide, to better meet the needs of students both in their studies and for future jobs.

The 2004 reform aimed to bring together all stakeholders (socio-economic actors, employers, parents) to tackle the education–labour market gap. The labour market did not consider that universities helped students develop the skills to secure jobs after completion of their studies. The new system has tried to shake up the curricula, offering more flexible, competence-based education and training. The result has been the professionalisation of curricula, allowing all university establishments to offer both academic and professional degrees.

Pedagogically speaking, the implementation of the reform meant that education and training were highly student-centred. The change also introduced a course credit system that provided more flexibility and demanded new ways of teaching and learning in terms of student performance. This new approach to teaching has given increased importance to the concept of learning outcomes (expressed in terms of knowledge, competences, skills and attitudes).

Generally speaking, the Algerian higher education system is marked by a high level of centralisation. This appears as much in the formalisation of the system as a whole as in the participation of the state at all levels, the participation of government members in all the governing boards of the institutions and the virtual absence of the private sector. As we will see, this great centralisation has many consequences for the life of the universities. The Algerian institutions can in most cases decide on the introduction of new programmes, the types of courses (level, sector, mode), the number of hours per programme, the format of student evaluation, the academic partnerships with other institutions and admissions questions (total number of students admitted, number of students per programme, admission mechanisms), but these decisions must be validated by the ministry of higher education in most cases for the introduction of new programmes, for the number of hours per programme and for the admission requirements (and in about half the cases for other decisions).

In terms of human resources, all – or almost all – Algerian institutions have the autonomy to hire or dismiss administrative staff or professors, to train staff or to grant promotions, but, with the exception of training and the promotion of personnel, these decisions must be validated by the ministry of higher education in most cases. On the other hand, there is little autonomy to establish incentives: almost no institution has the autonomy to set salaries for either teachers or administrative staff, and very few can establish performance-related bonuses or establish the contractual conditions of staff (duration, benefits). These limitations are linked to the low financial autonomy of Algerian institutions.

Algerian institutions are 99% public. Only a few institutions also have access to financing from international institutions or contractual services provided by the university (for consulting, for example), but this funding is very marginal. It may be noted that universities also collect tuition fees, but these account for only about 1% of their budget (World Bank 2012; World Bank/CMI 2013).

The majority of institutions have the autonomy to manage their assets (especially schools) or to keep and reuse the surplus of funding from one year to the next (especially universities and university centres), but none can set the level of tuition fees, define their income structure (i.e. public/private, bank loans, registration fees) or be in deficit, and only a few universities and university centres can use a multi-year expenditure programme (i.e. a framework for medium-term expenditure).

Within this framework, and after 10 years of implementing the LMD scheme, an evaluation of this reform must consider the wider background and implications of this system, if it is to produce adequate means for developing quality higher education in Algeria and autonomous higher education institutions. The reform in Algeria's higher education sector should lead to a new approach to management, governance and regulation of the institutions concerned. Indeed, the increased academic autonomy of Algeria's universities that resulted from these reforms has led to more diverse opportunities for education and training. Hence the need to introduce quality standards and tools from the very outset, in order to ensure the effectiveness and sustainability of the reforms.

COMMONALITIES AND DIFFERENCES: THE ROLE OF UNIVERSITIES

All the three Maghreb countries recognise the need to improve institutional autonomy and their governance system in higher education as well as quality assurance mechanisms that have been aligned with international trends. In and of itself, this is a positive development and should lead to progress in programme quality and enhancement over the next few years, improving the international competitiveness of Maghreb universities and rendering them more attractive in international partnerships. The close association with European universities through European Commission programmes such as Tempus, Erasmus+ and Horizon 2020 and international organisations (UNDP, World Bank, OECD) has facilitated the initial phases of the quality assurance process. Continuing association with the European Union will foster the further development of quality assurance activities in the Maghreb region but, perhaps more importantly, Maghreb quality assurance agencies also

need to share experiences between themselves in a concerted regional effort to tackle higher education challenges.

Over the past few decades and thanks to the quality assurance effort, the idea of evaluation has made headway in Maghreb universities (programmes, faculty, governance) and this effort must be reinforced. To be credible, these evaluations should involve all university stakeholders (students, peers, administration, partners), be transparent and presented as fostering improvement. Once again, leadership of and expertise in quality assurance agencies will be needed to ensure regular progress on these fronts.

Quality assurance will no doubt impact on governance, through the fostering of transparency, efficiency and a more institutionalised approach. By improving quality assurance, universities will also improve their ability to ensure responsible governance, encouraging the Maghreb governments to grant them more institutional autonomy, both administratively and financially. Such autonomy is in turn likely to alleviate the weight of higher education spending on the region's national budgets, freeing up funds badly needed in other sectors.

The commitment to the process of globalisation has given other objectives to the higher education system in Tunisia, including better readability of diplomas and better mobility of graduates. Since the enactment of this law, several laws have emerged either to improve representativity in governance bodies or to establish evaluation bodies, or to encourage the transfer of one status to another. In their implementation, however, many difficulties have been encountered.

In conclusion, the autonomy of Tunisian universities is further reduced. There is room for manoeuvre, but it is unevenly exploited. Indeed, the accumulated experiences have, of course, contributed to the establishment of new cultures and managerial approaches, but the sporadic adoption of practices and techniques, without human resources, adequate technical and information resources, and, above all, political will and vision, common and shared governance of higher education, can only be a hindrance to its development.

If the Tunisian higher education system is experiencing a reform process designed especially to improve autonomy and strengthen good governance, the Algerian higher education system is still a highly centralised higher education system. This level of centralisation is reflected in the low level of autonomy of universities at their own level, with the majority of decisions being made by central government. Finally, the development of the private sector took place within this centralisation of the system. However, the reform being put in place by the Algerian government in terms of higher education policies, with particular emphasis on quality assurance and strategic planning, will also be reflected by the acquisition of more academic freedom and a greater institutional autonomy.

The three countries, each with their specific features and social and political perspectives, indeed share some structural commonalities in terms of the need to improve university autonomy (both academic and financial autonomy) and reinforce good governance, which also means strengthening quality assurance mechanisms. We can conclude that among the various factors influencing the results of

higher education institutions and their performance, governance is a key determinant. A good governance structure and favourable regulatory conditions can promote innovative behaviour among higher education institutions, enable the development of strong quality assurance systems, and facilitate the design of effective financing mechanisms, reinforcing institutional autonomy.

CONCLUSIONS

Looking to higher education systems worldwide, we are seeking to address three main challenges: improving access to high-quality services; seeking out new sources of financing to cope with the growing student demand; and guaranteed access for all.

Reflecting on the possible initiatives to put in place to contribute to strengthening the university systems of the Mediterranean countries, we cannot fail to go to the Cairo Declaration (Union for the Mediterranean 2007). There is a strong international trend to increase the autonomy of public institutions by making them independent and self-governing. This emerges from the need to make universities more responsive to social and economic environments and more able to adapt to changing technologies and to innovate. In 2006, the European Commission marked as a priority the creation of new frameworks for universities characterised by improved autonomy and accountability. These indicators represent a priority for the region, albeit at different levels. It is up to the ministries but also universities to experiment with forms of autonomy that can contribute to a progressive increase in quality standards. It is therefore important to continue to support initiatives that go in the direction of strengthening the autonomy of universities.

Shared governance can work when there is a spirit of information sharing, collaboration and teamwork between the president, senior faculty leaders and middle management. In other words, it works when the silos come down and the institution becomes a unified learning community.

All these form the basis upon which UNIMED⁷⁶ has run its SAGESSE⁷⁷ project, which from the outset has tried to respect these criteria. The project involves as many as 13 Tunisian partner universities, the minister responsible for higher education, the quality assurance agency and important European university partners who have great experience of these issues. Tunisia has started its own autonomous university reform process and this project could essentially provide solutions to the many difficulties that every reform process entails. The same path has been followed by

76. UNIMED – the Mediterranean Universities Union – is a large university network made of universities from 24 countries on both shores of the Mediterranean basin, founded in 1991 and based in Rome, aiming at improving the Euro-Mediterranean dimension of university co-operation through promotion of education, research, mobility between and among its university members with the purpose of a better social, economic, political and cultural integration in the Mediterranean region.

77. The SAGESSE project, “Improving Governance in the Higher Education System in Tunisia”, co-funded for the three years 2017 to 2020, by the European Commission Erasmus+ programme Capacity Building for Higher Education and co-ordinated by UNIMED – the Mediterranean Universities Union – aims to modernise the higher education system in Tunisia by strengthening its quality assurance system, governance mechanisms and results-based funding. For further information, visit the SAGESSE project website: www.sagesseproject.eu.

the Algerian universities, with the new project to enhance university governance in Algerian higher education system, called ESAGOV.⁷⁸

Modern universities are linked to the economic and political environment in which they operate. Universities should be responsible actors in their societies because they are directly involved in generating new knowledge and because they teach and train young people to become leaders, entrepreneurs, scientists and professionals, as well as responsible citizens.

A higher education system that performs well is necessary for any country in the world to be competitive today. Universities need to innovate to provide the kind of education that will enable their graduates to be competitive and to contribute to the economic and social growth of their countries. And this is particularly true in a moment of great opportunities, such as the one we have in front of us now. Each crisis is, in a way, an opportunity. Innovative institutions must have governance systems that encourage all constituent groups to have a say in improving the institution and advancing its mission. Participation and accountability are one of the great challenges of the higher education systems in the southern Mediterranean countries because this implies a growing shift from hierarchical forms of organisation to more heterogeneous ones in which network relations are based on conditions of trust, reciprocity, reputation, openness to learning and an inclusive and empowering disposition. It necessarily involves a more decentralised, open and consultative form of governance. An associate model of governance involves the devolution of greater degrees of autonomy and responsibility for policy outcomes to those organisations that will enjoy either the fruits of success or suffer the consequences of failure. Universities should constitute one of the key institutional supports for this process and within this framework self-awareness is important for developing a reform process. Total academic freedom should be given to universities to be innovative and to respond adequately to the economic and social needs of their countries and their populations. Universities should not be looked at as separate entities but as part of a larger system of innovation and knowledge diffusion.

However, there is another issue that should be considered very important. Universities and their leaders should take responsibility for this mission: to contribute, through the involvement of the academic community, to the definition of priorities and objectives to promote, both inside the country and in partnership with institutions such as the European Commission and other European universities, a growing dialogue on common priorities that aim to overcome that initial division.

In the MENA region, the urgency of the need to take responsibility has recently been understood more by all those involved, whether national or international.

78. The ESAGOV project, "L'Enseignement Supérieur Algérien à l'heure de la Gouvernance Universitaire", co-funded for the period 2019-21 by the European Commission Erasmus+ programme Capacity Building for Higher Education, is made up of 14 Algerian universities, together with the Algerian Higher Education and Scientific Research Ministry and the CIAQES (Commission for the Implementation of Quality Assurance in Higher Education in Algeria) and aims at improving and strengthening the quality assurance mechanisms in the Algerian higher education system through the fulfilment of an action plan.

Universities could play an important role in this regard. We have to support this urgent need for autonomy and responsibility, for their future and maybe for our future.

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Academic freedom and institutional autonomy: where do we go from here?

University autonomy and academic freedom revisited

Sjbolft Noorda

ABSTRACT

The 1988 Magna Charta Universitatum has become a standard reference for core academic values. Intellectual and moral independence are declared to be crucial conditions for research and teaching to serve the needs of the world. Freedom, dialogue and tolerance should characterise university life to make it an ideal meeting-ground for teachers and students.

Since 1988 the milieu of higher education has changed considerably. Positive expectations about international relations have been frustrated, and in many countries a good number of tensions and inequalities have come to the fore. These developments present new challenges to universities on how to maintain and use their independence well, and how to protect and cultivate their internal freedom and openness. A new Magna Charta is being prepared to reflect these processes and express the commitment of signatory universities to strengthen the role of higher education institutions in promoting health, prosperity and enlightenment around the world.

Keywords: academic freedom; autonomy; freedom of teaching and research; Magna Charta Universitatum; universities.

INTRODUCTION

In 1988, in view of the growing co-operation between states and the role of universities in an increasingly international society, hundreds of mainly European university leaders, by signing a joint declaration on fundamental principles, wanted to demonstrate the core principles of what a university is and should be. Since 1988 this Magna Charta Universitatum has become part of the academic canon. It is frequently referred to as a standard expression of core academic values, autonomy and academic freedom in particular.

With its “canonisation”, the Magna Charta Universitatum (MCU) came to share the fate of most canonical texts. They are being talked about and referred to much more frequently than actually read. In the process, such texts often acquire new meanings and lose original ones. This chapter is an invitation to look it up and do some close reading, to retrace its original intentions and assess whether its latter-day use is indeed in line with the original, as far as we are at all able to mentally travel back in time to the 1980s.

After that, a number of comments will follow, on two core principles – one on academic freedom and one on autonomy – with an eye to contemporary challenges, developments and experiences in higher education.

In conclusion, some reflections will be offered on the need for – and the wisdom of – launching a new version of the Magna Charta in view of the many turns and twists of events, changes and new challenges to universities since 1988.

FOUR FUNDAMENTAL PRINCIPLES

The first thing that strikes today's readers of the MCU text is its use of stately language while at the same time presenting quite contemporary ideas and convictions. Maybe the fact that the original version was written in Latin and followed the style of international charters plays a role here. The preamble offers a good demonstration of this lofty style.⁷⁹

The undersigned Rectors of European Universities, gathered in Bologna for the ninth centenary of the oldest University in Europe, four years before the definitive abolition of boundaries between the countries of the European Community; looking forward to far-reaching co-operation between all European nations and believing that people and States should become more than ever aware of the part that universities will be called upon to play in a changing and increasingly international society, consider

1. that at the approaching end of this millennium the future of mankind depends largely on cultural, scientific and technical development; and that this is built up in centres of culture, knowledge and research as represented by true universities;
2. that the universities' task of spreading knowledge among the younger generations implies that, in today's world, they must also serve society as a whole; and that the cultural, social and economic future of society requires, in particular, a considerable investment in continuing education;
3. that universities must give future generations education and training that will teach them, and through them others, to respect the great harmonies of their natural environment and of life itself.

Universities are described as key drivers of development, as "centres of culture, knowledge and research as represented". This task is being fulfilled by teaching younger generations, but it also requires a broader service to society, particularly through continuing education. As a general feature of education and training it is stated that universities must teach respect for "the great harmonies of their natural environment and of life itself". From this it is immediately clear that the MCU presents a future-oriented outlook, in the interest of a broad development of societies, along with the promotion of due respect for the natural environment.

To enable universities to play their part the declaration goes on to proclaim four fundamental principles on which the mission of universities should be based. The first of these is about independence: "To meet the needs of the world around ... research and teaching must be morally and intellectually independent of all

79. For this and subsequent quotes from the Magna Charta Universitatum, see www.magna-charta.org/resources/files/the-magna-charta/english. This website offers many more translations in addition to the original Latin version. Accessed on 14 August 2019.

political authority and economic power". Immediately preceding this statement, the university is being described as an autonomous institution in the heart of societies that for reasons of historical heritage and geography are organised in different ways. The university is described as a basically cultural institution: "it produces, examines, appraises and hands down culture by research and teaching".

The second principle – that teaching and research should be inseparable – is also directly linked to the need to constantly respond to the changing needs and demands of society as well as to stay in touch with scientific knowledge advancements. It is important to note that this principle is not in any way linked to a specific institutional profile – be it research-intensive or teaching-focused – but stated as a crucial prerequisite for good-quality state-of-the-art education. Teaching is to be constantly updated. Delivery off the shelves will not do.

University life as a workplace of research and a meeting-ground for teachers and students is to be governed by "freedom, openness to dialogue and rejection of intolerance". Protecting this third fundamental principle is seen as a responsibility for governments and universities alike.

In formulating a fourth principle, the MCU clearly betrays its European origins. It presents itself as a declaration of European university rectors and calls for "heeding the European humanist tradition". At the same time, universal knowledge must be sought, frontiers should be crossed and cultural differences be taken into consideration.

FREEDOM, TOLERANCE AND DIALOGUE

Of these four principles the first one – on the essential moral and intellectual independence of research and teaching – delineates the position of the university in its context. To meet the needs of the world, research and teaching must be independent, and the university autonomous.

The third principle – on the freedom of research and teaching – is about university life and its fundamental principle, and goes on to qualify the university as an ideal meeting-ground for teachers and students.

Whereas in many discussions of "autonomy" and "academic freedom" the picture gets easily blurred, in the MCU it is sharp and distinct: while both concepts refer to research and teaching as the core processes of the university, the statement on independence is about defining the position of the university towards outside authority and powers, and the statement on freedom is about university life itself, the fundamentals of the university community of teachers and students.

I shall now zoom in and comment on the first and the third principles of the MCU, beginning with that on the university community, to be followed by the first principle on moral and intellectual independence.

The third principle reads in full:

Freedom in research and teaching is the fundamental principle of university life, and government and universities, each as far as in them lies, must ensure respect for this fundamental requirement. Rejecting intolerance and always open to dialogue,

a university is an ideal meeting-ground for teachers capable of imparting their knowledge and well equipped to develop it by research and innovation and for students entitled, able and willing to enrich their minds with that knowledge.

This principle states and reflects a strong academic tradition of freedom in research and teaching that must be promoted and respected by universities as well as by governments. At the same time, it qualifies this freedom as a “fundamental principle of university life” and a “fundamental requirement”. From conversations with some of the original drafters of the declaration I learned that in this context the popular phrase “academic freedom” was deliberately avoided to make room for a fresh expression that would not attract all sorts of conventional connotations.

Qualifying freedom in research and teaching as “the fundamental principle of university life” constitutes a group-specific, community norm and standard. In line with this focus on the university as a community, the MCU goes on to describe the university as “an ideal meeting-ground for teachers ... and for students”. They are the beneficiaries of this freedom or, rather, the ones who actually meet and interact in a university.

In the same sentence, the MCU qualifies these teachers and students, by speaking of capable and well-equipped teachers and of students who are entitled, able and willing to enrich their minds. Freedom belongs and is entrusted to qualified actors in the university.

In addition, the closing part of the MCU – on the means – includes a strong statement to the effect that the instruments to preserve freedom in research and teaching, and to realise that freedom, must be made available to all members of the university community.

In sum, the MCU is not presenting and subscribing to freedom as the fundamental principle of university life from the point of view of individual privilege but rather in terms of academic community culture. Exactly because of its commitment to freedom, rejection of intolerance and openness to dialogue, a university is an ideal meeting-ground for qualified teachers and students and should have the means ready to preserve and protect this freedom for all members of the community.

It is not surprising that the authors of the 1988 declaration felt the need to qualify and be precise and chose university community life as their focal point. They explicitly stated the basic qualifications of members of such university community of freedom, tolerance and dialogue.

All too often “academic freedom” is not very well defined. It easily becomes a fuzzy “anything goes” kind of motto. As a consequence, invoking academic freedom for protection or protest is often not convincing. It oscillates between a general freedom of expression and a specific professional freedom. Or “academic freedom” is defined in terms of individual entitlement, in more or less clear legal requirements and employment protection rights, while the domain of this particular freedom, the setting of academic individuals in the university community or their role as members of teams and departments, is left out of the picture.

Yet, also when “academic freedom” is indeed defined in line with the MCU as a characteristic ideal for university life, one easily gets into difficulty when trying to

describe and evaluate the real-life practice of freedom, dialogue and tolerance. Because determining whether or to what degree university life is indeed free, tolerant and open requires definition, measurement and analysis of comprehensive cultures rather than rules and regulations alone. And to describe and evaluate cultures one needs more than a catalogue of norms and rules.

CONTEMPORARY CHALLENGES

So much for the third principle of the original MCU. The drafters of 1988 clearly saw the need to underline freedom in research and teaching as the fundamental privilege of university life, in view of a future of increasing international association and collaboration. To be able to fruitfully co-operate it was deemed to be very important that all participants agreed on this principle. At the same time, international exchange and association were expected to nurture our sense of openness and dialogue.

How did it go? What have universities learned about freedom of research and teaching in their international practices since 1988? What would today's key challenges be with regard to this third principle?

First, it has become clear that it is quite a challenge to actually live and maintain the freedom, openness and tolerance that should be characteristic of university life. Success cannot be taken for granted, at home as well as abroad and in international collaborations. This is about the realisation of a crucial openness to different opinions and positions, to debate and solid argument, both in the domain of scholarship and in the societal context universities are part of. Universities ought to be lighthouses and examples for this kind of attitude and arrangement, leading the way for society. If universities fail to practise the ideals of freedom and tolerance within their walls, they are not only limiting the creative potential of their community of scholars and students, but also failing to function as a good model to the outside world.

At the time of the 1988 MCU almost all of us looked at the international scene as the main theatre of academic freedom. Increasing international mobility and collaboration were expected to nurture freedom and tolerance and heighten a sense of shared ideals and practices among colleagues.

In his 2008 speech at the 20th anniversary of the signing of the MCU, Danilo Türk – a former professor of law, at the time President of the Republic of Slovenia – clearly and unequivocally subscribed to these ideals and perspectives. In addition to its basic purpose of protection of universities, their professors and their students, academic freedom, he said, “calls for the development of a unified European intellectual space and a unified research area as the basic tools to give full strength to the creative potential of Europe”. He saw academic freedom as a driver of “new and exciting models of global academic co-operation with Europe as a key agent for creativity and development at the global level” (Türk 2009: 43).

Since then we have witnessed a substantial political climate change both at the global level and in many national arenas. For individual universities this turn of events meant that they were facing new challenges and new types of action and

resistance. President Zimmer of the University of Chicago aptly described the situation in the following way:

Invited speakers are disinvented because a segment of a university community deems them offensive, while other orators are shouted down for similar reasons. Demands are made to eliminate readings that might make some students uncomfortable. Individuals are forced to apologize for expressing views that conflict with prevailing perceptions. In many cases, these efforts have been supported by university administrators. (Zimmer 2016).

The challenge of how, under the present circumstances, to enact the principle of freedom, openness and tolerance as a key trait of university life has become a pressing one indeed. Maybe most university leaders would subscribe to President Zimmer's statement:

Universities cannot be viewed as a sanctuary for comfort but rather as a crucible for confronting ideas and thereby learning to make informed judgments in complex environments. Having one's assumptions challenged and experiencing the discomfort that sometimes accompanies this process are intrinsic parts of an excellent education. Only then will students develop the skills necessary to build their own futures and contribute to society.

In practice, however, many of us fail to make these ideals a reality in our institutions.

The second main challenge I observe is immediately connected to the first one. The university often is, or has become in many places, a *souk* with a host of individual shopkeepers, or a sports ground for individual career competitions, rather than a collaborative community with shared ideals and values. If I am correct in observing this, it would be a number one priority to seriously work on this, to create or recreate academic communities where basic values are being discussed and shared – and not just solemnly remembered and declared on festive occasions or used as a licence for individual self-promotion. University leadership must explore ways to simultaneously foster individual creativity and choice, and to build and maintain the fellowship or guild of scholars and students, not only in scholarly terms but in terms of civic responsibilities as well.

Quite often the debate on academic freedom has suffered to a certain degree from being double-edged: protecting the individual member of the guild and/or shaping and shielding the collective of the guild. In my perception many of us are guilty of a considerable degree of neglect here. In line with the broader social development of individualism, which in academic life has been strongly promoted by competition and contest, we have witnessed a considerable fragmentation of the university community and not given priority to community building and the design and development of joint values and shared ideals. The recent Living Values Project of the Magna Charta Observatory has been designed to help universities to do exactly this: detect, define and enact upon joint values and shared ideals.⁸⁰ If freedom of research and teaching, dialogue, openness and tolerance are to be the hallmarks of our universities, we had better reset our priorities and collectively work hard towards these ideals, to the benefit of the individual as well as the community.

80. See <http://www.magna-charta.org/activities-and-projects/living-values-project>, accessed 19 December 2019.

AUTONOMOUS AND INDEPENDENT

The very wording of the first fundamental principle is again an example of deliberate choice on the part of the drafters of the MCU:

The university is an autonomous institution at the heart of societies differently organised because of geography and historical heritage; it produces, examines, appraises and hands down culture by research and teaching. To meet the needs of the world around it, its research and teaching must be morally and intellectually independent of all political authority and economic power.

They refrained from making complacent unilateral statements on the independent university, but rather made it crystal clear that universities are embedded institutions. They exist in a social setting – “at the heart of societies” – and their autonomy is to the benefit of their particular environment. The university must be independent for a purpose, in order to enable it to do what it is supposed to be doing and in order to best serve those whom it is supposed to be serving.

Exactly by realising that universities are embedded institutions and that their independence is a quality that enables them to meet the needs of the world, it becomes clear that university autonomy is not an abstract notion but a social phenomenon and, as such, is susceptible to social forces and influences. This implies that statutory provisions are not a sufficient guarantee. Countries may have included autonomy for universities in their constitution and nevertheless exert strong pressure on these institutions, their programmes and priorities. Solemn declarations and legal provisions simply are not enough. A true social contract is crucial, one that is underwritten by all stakeholders and lived up to.

At the same time, the phrase “societies differently organised because of geography and historical heritage” recognises that there are substantial differences between their environments, the specific locations where they are based. It remains somewhat unclear, however, what these differences imply. Most probably the intended meaning is that universities are autonomous institutions in the middle of societies, however different these societies may be organised. However that may be, in the view of the authors of the declaration such differences are no excuse or alibi to dispense with institutional autonomy.

The first principle of the 1988 MCU is an unambiguous statement. Research and teaching should be morally and intellectually independent and universities should be autonomous to be able to do their job well, to do what they are good at. It is equally important that universities understand what they are good for. Universities do not exist for themselves.

Autonomy is a crucial condition for success in scholarly research, for critical quality in teaching and learning as well as for unfettered defining of the institutional mission and academic hiring criteria. And successful research, high-quality teaching and learning, as well as well-functioning academic institutions, is exactly what societies expect from universities.

Autonomy does not come by itself; it must be granted. In an ideal world, legal provisions allow universities the freedom to act independently when organising their institutions, hiring their fellows and designing their programmes. Sufficient

generic funding ideally allows them to do what they are good at and to set their own spending preferences.

Yet both the legal framework and the funding arrangements are subject to political preferences and societal demand or pressure, not just in general, but very specifically. Universities are granted their autonomy for a reason and for a purpose: to be useful to society and responsive to its needs. As a consequence, lawmakers and funders are sorely tempted to give specific instructions or warnings as to what universities are supposed to be good for, what contribution this or that particular institution should make to present and future society.

In most cases the two sides are able to strike a balance, avoiding extreme positions. The social contract underlying a university's existence then is a truly bilateral contract, one party allowing autonomy and independence, the other side committing to responsiveness and usefulness.

Over time, however, and for all sorts of reasons, the terms of the contract are being reinterpreted and reapplied. The social contract between university and society implies and reflects a dynamic relationship, bringing change and ever new challenges.

AUTONOMY IN TIMES OF NATIONALIST REVIVAL

In view of the positive internationalist climate at the end of the 1980s the first principle of the MCU unquestionably expressed the conviction and expectation that worldwide independent universities would be or should become forces of social progress and development. This expectation has indeed come true. Towards the end of the last millennium, and in the first decade of the new, immense progress was made, not only in terms of university growth but also their impact on societies. In very many places around the globe universities used their independent powers to contribute to the development of societies. Yet with these successes new challenges came along. Success attracts attention and invites demand. A growing number of potential beneficiaries, be they representatives of government, international businesses, local and regional stakeholders or students and their families, knocked on the door and voiced their requests – often in opposition to each other.

Looking back to those decades of growth and development in 2008, Jón Torfi Jónasson noted the successes but recorded the flipside as well. Referring to contemporary universities, he wrote:

From the outside they seem to have everything going for them: they should be basking in the glory reflected on them by the public discourse; from the inside, however, they appear being somewhat at a loss: they lack confidence, searching their path into the future, wondering which way to go. They seem to be uncertain about their roles, obligations and loyalties, torn as they are by strong and seemingly conflicting demands made by a multitude of stakeholders. (Jónasson 2008: 18)

Since then the challenges have multiplied. If institutions of higher education and research thought their position in society to be stable and sustainable, recent developments in the European Higher Education Area and in the Americas have been a wake-up call, loud and clear. The United Kingdom's plan to separate from

the European Union, the emergence of new-style American politics since 2016 and Jair Bolsonaro's election as president of Brazil are quite prominent incidents of political change. They will most probably for many years perturb the academic environment in the countries concerned. Yet they are not alone. Changing government policies in Hungary, Turkey and Venezuela are already jeopardising university freedoms to a degree that until fairly recently was beyond plausibility.

A stark focus on national interests is the common denominator and the main driving force of these political pressures. Countries feel they must reposition themselves in the international arena and their leaders prefer the confrontational to the collaborative mode: erecting walls rather than building bridges. Precisely this core characteristic explains why universities are suffering the negative impact of the political adoption of new-style nationalism. Over decades the collaborative mode, especially a keen sense of the benefits of international co-operation, had driven the agenda of individual universities and national higher education systems alike. With the motto "internationalisation in times of globalisation", a range of positive connotations had entered university policies.

It should, however, not be overlooked that nationalist revivals as a rule enjoy strong support by the electorate. This clearly echoes disillusion and a sense of being left behind that reside with many in society. Others may have prospered in times of globalisation, open economies and open borders. Many have seen no benefits and feel threatened. To them it is about time for a change, a new rule, or a revival of older verities, that will honour and protect the people that have been left out of the equation. This is where the nationalist revival links up with populist concepts and campaigns. Although pure and unadulterated populism is a much more sporadic phenomenon than popular opinion has it, many of its traits have become quite common and fashionable (Müller 2016).

What message does all of this send to universities? How do they respond? Are they concerned about the consequences for existing arrangements of international co-operation? Apprehensive that they might be deprived of major funding options? Afraid of loss of market power in domains like student mobility and research talent acquisition? Such worries are quite understandable. Yet they easily lead to defensive responses, efforts to maintain existing positions of privilege and rank. I would like to suggest that a deeper rethinking of the mission of universities and the use of their independence is called for.

The traditional narrative about higher education – widening access opens up a bright future for both the individual and the community – has already lost much of its strength in view of inequalities in the labour market and fragmentation in society. The promise of a good job after graduation is not true for all (Brown, Lauder and Ashton 2011).

The widely acclaimed worldwide success of scientific research also has its flipside. International journals favour international themes and topics. Worldwide rankings measure accomplishments that are visible and measurable on worldwide scales rather than a research agenda driven by national and regional priorities. Global competition easily drives out local engagement and logically favours technology and the natural sciences over social sciences and humanities. Solitary scholarly

voices fear that too much unregulated globalisation leads to social disintegration and weakened democracies (Rodrik 2011).

In the wake of all this, should universities not seriously reconsider their research agendas, seek to rebalance them and reframe their mission in teaching and learning?

It seems that in at least some European and American societies the social contract underlying the mission of higher education and research has been destabilised. The concept of universities for the public good, producing benefits for all, is under attack. Critics see it as a sham, covering up for the self-interest of academics and present stakeholders, and easily range universities with “the elites” that must be dismantled in the interest of “the people” (Noorda 2017).

Whether, and to what extent, such criticism is legitimate is open to question. In matters of perception and reputation, however, impressions and suspicions had better be taken seriously. Even when only partly justifiable, they are signalling cracks and fissures in the once solidly positive image of academia and the status of trust that came with it. And as is usually the case with reputational harm, defence and denial are wobbling weapons and feeble friends. It would in my opinion be much wiser if universities responded by reviewing and rethinking their mission and priorities. Are we not misleading ourselves by past success – celebrating growing enrolments in higher education and great accomplishments in research – and have we not gone too far along the road of focusing on excellence and profiting from competition?

The success of mass higher education is not the success of all participants and of all of society. Its benefits are very unevenly distributed and thus contribute to basic inequalities in society. Similarly, the leading university model as reflected by international rankings is not the model of preference for all of society, because social engagement as a research priority and honouring a diversity in cultural backgrounds, social status and early schooling in teaching and learning are being overshadowed by striving towards research excellence and relying on the mechanics of individual careerism. As a consequence, higher education in many countries has been promoting inequality and has forgotten basic equity. It should not come as a surprise that support for higher education comes mainly from those who (expect to) benefit from it, while large segments of the general public have lost trust and we in higher education are still mesmerised by decades of growth and success.

New-style nationalist policies with their populist flavours no doubt pose serious threats to higher education and research systems, which should not be underestimated and against which a vigorous defence is called for. At the same time, they sound wake-up calls and offer compelling reasons to rethink the social contract underlying higher education, the values driving individual institutions and the priorities of their agendas.

The ambition of the first principle of the MCU that universities meet the needs of the world by research and teaching “morally and intellectually independent of all political authority and economic power” is not efficacious by itself. It sets a daunting task that requires considerable courage and commitment. Over the last few

decades, experience has shown that universities do not always muster the courage to perform this task. In any case, we should realise that subscribing to the MCU declaration on independence is more than making a lofty statement; it is in fact taking a first step along a journey of hard work.

TOWARDS AN MCU FOR 2020

Since 1988, university provisions have increased considerably in volume and variety, and in outreach and in weight. We have not only a greater number but also a greater diversity of institutions, public as well as private; many more students, staff and programmes; new digital delivery modes and research facilities; increased interest from a growing number of stakeholders; a lot more international travel for study purposes; and a much stronger globally visible research output. Grand challenges in terms of scientific ambitions as well as in terms of future planet sustainability underscore the key role of scientific discovery and innovation. As could be expected in a field with a greater number of strong players, competition and competitiveness have increased, for funding, for high reputation rankings and for talent.

The story has not been about growth and successes alone. High levels of political and societal turbulence and new international dynamics have been shaping and reshaping the social contracts on which universities depend. Universities are struggling to remain open spaces of dialogue and tolerance. Individualism and careerism are jeopardising the community quality of academia. Finding and maintaining joint values and shared ideals is not simple. So, universities and their leadership clearly have some internal business to take care of.

At the same time, societal developments of fragmentation and inequality, and political climate change in terms of nationalist revivals and populist claims have entered the scene and have been editing and updating quite a few goals for the sustainable development of our higher education systems and institutions. Identity fragmentation, erosion of trust in independent institutions and expertise, and a clear decline in the positive impact of education on the well-being of all must clearly be added to the list of grand challenges human civilisation is facing. At the end of the day, universities will have to demonstrate their positive contribution to society at large, or else they will see their position of trust and reliability erode.

Underlining the importance of independence and social responsibility, freedom and tolerance, the nexus of teaching and research certainly was a crucial message to the outside world of the 1980s. Yet at the same time an important aspect of university life, responsibility and performance remained outside the 1988 MCU.

Since then quality, trust and reliability have become important issues for universities, and with them values like integrity, fairness and accountability. At the same time, various changes in the university landscape worldwide and important developments in the contexts of universities pose new challenges that must be met. In sum, it has not been business as usual, even if individual developments have not been of the same intensity in each and every nation or region.

All this made the Magna Charta Observatory discuss the need for rethinking and maybe restating the fundamental principles of what a university should be and do. Over and over again we have noted that the original MCU of 1988 is and remains a great and strong declaration. Seldom have we received negative signals about anything in the statement, with the exception of the repeated references to Europe and European institutions and traditions which were thought to be less appropriate in a statement with a global purpose for a global audience. Here the birthplace of the MCU and its 1988 founders clearly have left their mark.

What we frequently did observe, however, was the need to say more, to go beyond stating a small number of fundamental principles and distinctly and explicitly address contemporary challenges and express the responsiveness of the signatory universities and their ethics as well as their key commitments and engagements.

Taking these observations into consideration, the Magna Charta Observatory in 2018 invited a committee of eight to prepare a first draft of a new MCU to act as the voice of today's worldwide universities speaking on the issues and challenges of today and the years to come, committing themselves to live by the stated principles and ambitions, and inviting others – stakeholders, partners, governments – to enable universities to operate according to these principles and ambitions, and protect them whenever needed. It should also be noted that whereas the 1988 drafting group consisted of eight European professors and rectors – all of them males in the same age category – the composition of the present committee is gender-balanced as well as age-balanced, with members from five continents and a variety of academic ranks, including a student leader.

Meanwhile, a first draft has been presented to the Council of the Observatory and made available on the Magna Charta website for public consultation.⁸¹ In addition to the online inquiry, the observatory will organise a number of conferences and workshops where this first draft will be tested, the results of which will – if all goes well – lead to a new MCU 2020 being launched in Bologna at the 2020 anniversary of the original declaration.

The new draft Magna Charta Universitatum removes nothing from the original fundamental values to which universities have signed up since 1988. It strives to be responsive to and resonate with contemporary challenges and concerns. Its tone recognises that the pursuit of the fundamental values has worth along with their actual attainment, which, in practice, is a constant quest. It recognises the more global nature of what universities do and the wider range of local responsibilities that they have.

IN CONCLUSION

In his contribution to an earlier Council of Europe publication, Frank Rhodes lamented the absence of any agreement or even debate on the broader public responsibility of universities “beyond the production of graduates, the provision of limited professional services, and the pursuit of knowledge” (Rhodes 2007: 44). This silence has led to an erosion of institutional integrity in some places and more generally to a loss of public credibility. Against the backdrop of this trend Rhodes

81. See www.magna-charta.org/magna-charta-universitatum/mcu-2020, accessed 20 December 2019.

states that “universities can exert civic influence only if they themselves are seen as models of civic responsibility”. He also asks whether universities would not do well to articulate their core values and “encourage a renewed professional commitment that recognises that these values are embedded in the university’s larger social purpose and obligation” (*idem*: 45).

Precisely because the positive role and purpose of higher education in contemporary society may not be acknowledged by all, higher education institutions and their national and international friends and partners should join forces. Over the past 30 years individual universities and (inter)national associations have been quite successful in setting common goals for high-quality teaching and research and developing joint ventures of all sorts. It would be highly desirable that such collaborations be continued and also keenly directed towards the university’s larger social purpose and obligation. The 2019 Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy was a fine example. Let us keep up the good work!

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“Freedom to err” as a beacon for public policies on higher education and research

A wandering reflection with special reference to current debates on freedom of education and the state of democracy in Flanders-Belgium

Marie-Anne Persoons

ABSTRACT

The chapter opens with the iconic address of the former Rector of the Catholic University of Leuven to Pope John Paul II in 1985 on the “freedom to err” as an essential condition for researchers and universities to break the chains of orthodoxy for the sake of advancement of knowledge and science. Documented by references to intellectually “dissident” but non-populist voices in the current debate on the state of democracy in Belgium in particular, the chapter argues that despite robust legislation on “freedom of education”, the threat to freedom of thought of subsequent “orthodoxies” will always reappear, albeit in the contemporary guise of poorly designed accountability models. Moreover, the current contestation of democracy as a hallmark for the sound functioning of societies and the upsurge of populist trends has given leeway to new all-encompassing ideologies, not only affecting populist movements, but also some types of politically correct orthodoxy that becomes more and more entrenched in its own claims of moral superiority. Academia is the natural ally of public authorities in the identification of “non-falsifiable theories of everything” as obstacles to democratic higher education policies. A co-operative approach is required that rethinks the concept of public responsibility, rediscovers the power of trial and error and, eventually, fosters a methodological mildness toward dissidence.

Keywords: higher education and democracy; higher education policy (Belgium); accountability; freedom of education and research; critics of ideology; democracy and dissidence.

OPENING: THE FREEDOM TO ERR

The University assumes the mission to constantly question established truths and, where necessary, to adapt to the contemporary discourse and thinking. This inevitably leads to clashes between error and orthodoxy, and sometimes even to transition from error to orthodoxy. ... Each intellectual is always standing in the border area between the already known and the not yet known Scientific researchers of any discipline should have the freedom to map that unprecedented, in order to design

and test working hypotheses, to integrate new ones into the already known or to infer conclusions from the already existing. They should also be granted the **freedom to err**: this is an essential condition for them as researchers, to fulfil their mission, as well as it is for the University as an institution.⁸² (Rector Pieter De Somer of the Catholic University of Leuven in his welcome address to Pope John Paul II, 20 May 1985, quoted in Nuttin and Servotte 1985: 253 [author's own emphasis])

A quotation that has gained iconic status in the collective memory of academia is always a safe introduction when discussing a multifaceted topic. From a Belgian perspective and in the case of academic freedom, the serene plea of the former Rector of the Catholic University of Leuven addressed to Pope John Paul II in 1985 for the “freedom to err” as an essential condition for researchers and universities to break the chains of orthodoxy comes to mind in an almost “natural” way.

The setting was dramatic enough. A rector, at the end of a long career in medical science, clearly showing the signs of the disease that would take his life a few weeks later, standing in all lucidity in front of one of the university's most powerful alumni, who moreover represented the institution that – at least in theory – was entitled to spiritually guide Leuven as a Catholic University. One could figure out a myriad of freedoms to reclaim at such an occasion, but Piet De Somer in all sobriety mentioned just one – the freedom to err. That was his *adieu* to public life, his colleagues knew it, the audience felt the electricity in the room and the addressee of the message realised it as well.

But is the reference to the eternal interplay between error and orthodoxy in the advancement of human knowledge, pronounced more than 30 years ago in one of the almost uncountable number of universities in our continent, still relevant in the European Higher Education Area of today?

A *prima facie* analysis of what happened in 1985 could easily confine the interpretation to the particular context of education in Belgium only. With a large sector of publicly funded private schools and higher education institutions alike, the question of institutional autonomy and public responsibility is probably brought to the essence of the matter, or is at least less hampered by side-considerations on legal status or even source(s) of funding than elsewhere in Europe.

And indeed, as the history of the private education sector lies predominantly in provision by organisations of religious denomination, the pathway towards a large degree of institutional autonomy of Belgian education institutions can be addressed from the double perspective of the relations with the state as well as with the Church.

From the legal point of view, freedom of education and institutional autonomy in relation to public authorities is firmly anchored in the constitution from the origins of Belgian state in the 19th century and, since 1988, in the legislation on education at the level of the (linguistic) Communities. Moreover, in an era of secularisation, the founding religious denomination is no longer a barrier to university access; it hardly influences the choice of learners for a particular institution, nor does it guide the higher education institutions in the recruitment of staff.

82. All translations from Dutch into English are by the author.

The latter is by no means a recent phenomenon. Rector De Somer's reference framework was undoubtedly a secularised society with a clear division between the distinct realms of state and Church. Hence his insistence on the freedom to err is not to be read as a reminiscence of past emancipatory processes from Church control or other historically contingent obstacles to freedom of research in a particular (type of) university. It was meant as a universal exhortation, a legacy for future generations.

So, let us follow this inspiration and adopt a wandering style to discover intellectual freedom as shaped by the act of erring, mindful of the etymological origin of the Latin verb *errare* with its double meaning of "wandering" and "going astray" and thus "committing an error". Our *périple* will call at Belgium, and Flanders in particular, and point at current challenges in safeguarding the freedom of education and trust in a system characterised by large institutional autonomy. The focus will then shift to academic freedom and freedom of thought and expression, while carefully listening to "dissident", yet non-populist, voices of intellectuals in the debate on the state of democracy.

FREEDOM OF EDUCATION AND "CRACKS" IN THE TRUST IN EDUCATIONAL INSTITUTIONS

Education is "work done by people". Policy makers at every level should put trust in all these people and also give them opportunities. They need more (breathing) space for genuinely fulfilling the core tasks for which they assume responsibility. (Crevits 2014: 19)

Trust in education institutions of all levels – from schools to higher and adult education – has often been proclaimed as the hallmark of the Belgian education system(s) from the very beginning of the existence of Belgium. Advocates of this thesis proudly refer to the enshrining of freedom of education in the Belgian Constitution of 1831.⁸³ At that time this insertion in the constitutional framework was motivated by a reaction to the activist and centralist education policy of the former Dutch, French and Austrian rulers over the territory of the newly established State of Belgium in 1830. The freedom for any natural or legal person to organise education (active freedom of education) initially prevailed over the freedom to enrol in education and over the passive freedom of education, i.e. the choice of the type of education that one wishes for one's children.

In the same concern to confine the power of the monarch or the executive government, the constitution led to imposing a strict legality principle for all regulation concerning education, thus requiring legislation to be approved by parliament for each and every governmental action on education. This strict application of the legality principle has been maintained until today and not only provides a partial explanation for the relatively lengthy pathway of education reforms in Belgium, but also accounts for the stability of the – by definition consensual – decisions, once they have been approved by the respective parliaments.

However determined the legislators were in 1831, the concrete implementation of freedom of education would be the subject of decades of discontent between

83. Article 24 of the current Constitution of Belgium (the last revision of this education-related article dates from 1988).

the – in confessional terms – “liberal” and “conservative” political fractions. Most notably they disagreed on the role of public authorities as education providers, the status of religion or other philosophy of life courses in (public) schools and the possible public funding of privately run (known as “free”) education. This culminated in two fierce “school battles”, between 1879-84 and 1951-58, after which a compromise was reached with the “School Pact” of 1958 that was based on the principle of passive freedom of education (parental choice) and a more fair and equal treatment of private education (predominantly of the Catholic denomination) in terms of access to public funding.

The School Pact is still most visible in the organisation of the school landscape. The Flemish Community of Belgium has three types of schools, of which two pertain to public law–Flemish Community education and education by Provinces and Cities and Municipalities – as well as private education. All three types of providers are entitled to public funding, since 2008 completely on equal footing for staff as well as the operational budget. Privately funded schools that operate without any public funding represent less than 1% of the total system. Nearly three quarters of the students in secondary education enrol at (publicly funded) private schools. All schools, public and private, are subject to the same legislation for recognition and external quality assurance. The Flemish school system is moreover one of the most devolved systems across OECD countries. Schools enjoy a very large degree of autonomy in terms of curriculum design and delivery as well as of human resources (Nusche et al. 2015). Nonetheless, as observed by the OECD, “the level of commitment from both public and private school providers for serving the public good is a fundamental strength of the Flemish system” (*idem*: 21).

The situation described above for school education applies *mutatis mutandis* also to higher education, where historically there has always been much room for private initiatives. The former state higher education institutions gained their full institutional autonomy only at a later stage, following the Parliamentary Acts on Universities (Decree 1991) and University Colleges (Decree 1994), while keeping their public status in legal terms (Persoons 1998).

A key factor from a legal point of view is that the consensus of 1958 was also integrated into the revision of the constitution in 1988 where – in the process of federalisation of Belgium – the competence for education policies was devolved to the level of the linguistic Communities in Belgium (Witte, De Groof and Tyssens 1999). This process implied a new series of constitutionally guaranteed fundamental rights, such as the right to education, that were put on the same footing as freedom of education. In 1988, the arbitrating role between the different fundamental rights was entrusted to the Arbitrage Court, renamed as the “Constitutional Court” in 2007.

In a recently defended PhD dissertation, Lievens (2019) argues that the jurisprudence of the Constitutional Court has entailed serious (legal) restrictions in the execution of active freedom of education, and in particular in the freedom of setting the goals of education. This is illustrated by the confirmation by the court of the

competence of the Communities of Belgium⁸⁴ to legally define minimum educational objectives (learning outcomes; *socles de compétences*).⁸⁵ Also, the extension in Flemish legislation of the control over “home education”, schooling organised or commissioned by the parents themselves, provides a clear example of the creation of a framework in which the right of education prevails over the active freedom of education of the provider. In the latter case, there is moreover a tangible tension between the principle of legality and the freedom of education (both active and passive) (Lievens 2019: 374).

So far, the legal analysis, but it goes without saying that legislative work on minimum standards for learning outcomes or a stricter control on parents opting to organise the schooling of their children provides *de facto* – at least indirect – guidance on the content of education. It also builds on mostly implicit definitions of crucial concepts in educational policy, such as (balancing) quality and equity.

This observation switches the focus to another question: what was the translation in political terms and how does the situation in Flanders relate to European and international trends?

A careful reading of the Policy Paper on Education for the Administration 2014-2019 (Crevits 2014) by the Flemish Minister of Education provides an initial understanding of the current balancing act between the institutional autonomy of schools and the public responsibility of governments to provide the legal framework in which learners can enjoy their fundamental right to (quality) education.

The paragraph on “Granting trust and space” (*idem*: 19) proclaims:

Every day, more than a million learners are entrusted to teams of teachers, trainers and professors, to directors and school administrators and to counsellors and support staff. Every day these people give the best of themselves, with a lot of commitment, professionalism and seriousness. Every year tens of thousands of pupils, students and other learners leave the school desks with a qualification in their pockets, and competencies allowing transition to the world of work, that are highly regarded at home and abroad. Society appreciates the commitment, effort and professional seriousness of everyone contributing to this.

It also sets straight the division of labour between government and the educational field:

The Government focuses on the goals to be achieved and does impose regulation on processes and methods applied. In contrast, it should tackle the current over-regulation. The responsibility for the quality of our education lies with the school and the teachers. The Flemish Government Agreement is very clear on this: the Government

84. Belgium is a federal state in which the competence of education has been completely devolved to the three (linguistic) Communities, i.e. the Flemish Community, the French Community and the German-speaking Community, who each administrate their own education system. The constitutional context, however, prevents these autonomous systems from diverging too far from each other.

85. In contrast, granting them more leeway in the definition of the educational outcomes than the minimum standards only would be in conflict with the principle of freedom of education guaranteed by the constitution (Lievens 2019: 283-284).

lays down the “what” but not the “how”. Steering on goals implies that the Government clearly formulates and confines these goals.

FROM ACCOUNTABILITY IN EDUCATION TO “THE MOST POLITICAL AND PLURAL EXERCISE OF THINKING”

Against a notion of academic freedom that establishes the limits of the political in order to defend the university from the onslaught of the market and the political economy of innovation, I prefer to propose the exercise of academic freedom as the most political and plural exercise of thinking, the one who we are as academics. (Lange 2016: 186)

The situation in Belgium and Flanders as described in the previous paragraph does not stand alone in a European context. It is representative of a wider international trend that even in countries with a well-rooted democratic tradition, as well as a largely autonomous education sector, public authorities play an increasingly active role in governing the quality of education by defining its purpose, or at least in the – in a democratic perspective – legitimate exercise of balancing the different missions of education and interests of stakeholders against each other.

In an increasingly global education governance discourse, European and international organisations play their part as well, with the often-quoted example of the growing impact of the OECD’s Programme of International Student Assessment (PISA) (Gardinier 2017). Educational scientists describe a development where the scores of a cyclical assessment of 15 year olds’ foundation skills have become the dominant worldwide reference for the performance of education systems. Even for the European Union, PISA provides the only quantitative indicator for the quality of education in the context of the Education and Training 2020 benchmarks.

Meyer and Benavot (2013) have nonetheless called for caution in taking for granted that the quality of a nation’s school system can be evaluated through an assessment that claims to be politically and ideologically neutral, presumably producing disinterested data. According to these authors, PISA’s dominance in the global educational discourse could even potentially run the risk of engendering an unprecedented process of worldwide educational standardisation for the sake of hitching schools more tightly to the bandwagon of economic efficiency, while sacrificing their role of preparing students for independent thinking and civic participation.

In this context, “accountability” is the key word. The topic was judged important enough for UNESCO to dedicate the 2017/2018 volume of the Global Education Monitoring Report to this particular theme (UNESCO 2017). Based on evidence from different educational contexts worldwide the Global Education Monitoring research team recommended that in addressing major education problems accountability is part of a solution, but nonetheless should be designed with “humility”. Indeed, even if specific accountability mechanisms work in specific contexts, they can also be detrimental in other contexts if poorly designed (ibid.).

In all these examples, school education is targeted at first, although the success of PISA might inspire further experimentation with international assessments in the higher education sector (Morgan and Shahjahan 2014). In more general terms and following socio-economic trends and their emanation in New Public Management

with ensuing accountability models, higher education is no longer an isolated island of unchallenged institutional autonomy and academic freedom either, as Lange (2016: 178) sharply observes:

The introduction of greater accountability at higher education institutions (HEIs) came hand in hand with the external imposition of new forms of control and measurement of productivity and efficiency that increased the regulation of academic life. The impact of these processes was felt especially in the institutional reorganisation (merger, fusion and closing down of departments and programmes), the structure of the curriculum (the reorientation of many programmes to respond directly to market needs) and the funding of research (the prioritisation of research areas in relation of definitions and measures of impact and relevance).

And just as with worldwide standardisation in school education governance, the democratic mission of education – in this case higher education – is challenged. Lange expresses the warning that the politicisation and instrumentalisation of the university has yielded the interesting and contradictory result of the depoliticisation of knowledge and the academic in particular. Inspired by the writings of Hannah Arendt and Pierre Bourdieu, she advocates that the defence of academic freedom is to be thoroughly revisited as “the most political and plural exercise of thinking” (*idem*: 186).

In the same spirit, Smith and Benavot (2019) examined two key characteristics of prevailing accountability systems that have become the cornerstone of contemporary education policies, their reliance on external monitoring and their focus on outcomes and results, while the main stakeholders are typically absent from the discussion. Many accountability reforms in education do not achieve the intended impact, as the framework condition for strengthening accountability in education is not fulfilled, that is, providing different actors with an opportunity to articulate and represent their views as the accountability process unfolds. Such an approach is referred to as a “structured democratic voice” and is a critical condition to help overcome shortcomings in dominant accountability approaches and to achieve strengthened accountability. The authors conclude that “where there is trust, accountability improves” (*ibid.*: 193).

INTERMEZZO – THE FREEDOM TO ERR VS OMNISCIENT IDEOLOGIES

Ideological omniscience gives rise to the same paradoxes and divine omnipotence: can the Divine Lord create such a heavy stone that he himself cannot lift? The creators of general world reform solve the paradox quite simply: they create the stone and command others to lift it. (Maciej Broński – pseudonym for Wojciech Skalmowski – in *Fragmenty* (n.d.))

Let us continue our meandering road by zooming in once again on the interplay between orthodoxy and error, but from another angle – what/who was behind the rector’s address back in Leuven in 1985? Although the general content fully aligns with the convictions of the speaker, the style of the argumentation also breathes the spirit of a reflection group of academics on the mission of their university, including the Polish-Belgian Iranologist Wojciech Skalmowski (1933-2008) (Persoons and Dierick 2018), who has often been “suspected” of being the

inspiration behind the “freedom to err” phrase. Skalmowski had definitely been invited to contribute on the basis of his personal acquaintance with the addressee of the welcome speech, that indeed contains gentle reminders to the latter not to forget his own past struggle for academic freedom when actually dealing with academia himself. The concept of the freedom to err moreover undeniably captured very well what Skalmowski stood for as a completely “unorthodox” academic himself. His disagreement with the anti-intellectual, and antisemitic, campaigns during the March 1968 events in Poland led him to the decision to leave for the West. He complemented his academic career as an Orientalist and linguist at the Universities of Kraków, Berlin, Tehran, Harvard and Leuven with the publication of dozens of politically inspired literary essays for the Paris-based Polish emigration review *Kultura*, edited by the writer and political activist Jerzy Giedroyc, and influenced “intellectual Flanders” with many sparkling book reviews with a political twist for the literary supplement of the newspaper *De Standaard*.

The fight against any form of censorship or limitation of freedom of thought by political ideology or by pseudo-science became the core of Skalmowski’s research, teaching and writing. In this endeavour he felt a special affinity with Raymond Aron, one of France’s most important post-war liberal protagonists,⁸⁶ who was also personally acquainted with international political philosophers such as Hannah Arendt. Skalmowski particularly resonated with Aron’s vision that an intellectual should act as a *spectateur engagé* of society, whose duty it is to analyse it critically “without succumbing to any ideology”. So the echo of Aron’s publications – reflecting the typical East/West dichotomy in the Cold War period (Scott 2011) and that of Jean-François Revel (Revel 1976) – was often present in his own sharp observations on ideologies and their paradoxical attempts to seek legitimisation in moral superiority and non-falsifiable omniscience, as can be witnessed from the following fragment:

The foundation of ideologies, despite the visibility of intellectual constructions, is emotional and, moreover, as “general theories of everything”, ideologies a priori explain everything, including the arguments of the opponent. ... For a certain type of reason this irrefutability of ideologies is their main attraction (the so-called iron logic), although it has long been noted (by Karl Popper) that this trait distinguishes pseudo-science from science (Broński n.d.).

The quotation is representative of what remains particularly relevant in Skalmowski’s writings in the contemporary discussion of academic freedom, notably his insistence that the threat of totalitarian ideologies did not stop with the fall of Nazism and Communism in eastern Europe. New ideologies will always pop up to take over, not only via political regimes that typically use them as a powerful instrument to deceive their populations – as an Iranologist he referred to autocratic and/or religious fundamentalist regimes in the Middle East providing illustrative examples (Persoons 2018). More indirectly, they also find their way via theories with the characteristics of totalitarian ideologies in (human) sciences, such as post-structuralism or postmodern literary deconstruction, that exhibit striking affinities with the totalitarian persuasion – otherwise known as “Newspeak” in the Orwellian sense

86. Author of *L’opium des intellectuels* (Aron 1955) and *Démocratie et totalitarisme* (Aron 1965).

– and of which the rhetoric displays the following features: (1) binary orientation; (2) a combination of pragmatics and ritual; (3) a “magic” ingredient, i.e. the blurring of boundaries between fiction and reality; (4) arbitrary semantic manipulation; (5) obscurity; (6) idiomatic character; and (7) selectivity of content (Skalmowski 1999 – the list of features of Newspeak rhetoric were borrowed from the Polish linguist Leszek Bednarczuk).

METHODOLOGICAL INDULGENCE OF “DISSIDENCE” AS A PREREQUISITE FOR BETTER POLICIES

Teacher: What do you say? Your hijab is a symbol of integration in our society?

Student: Yes. I have been able to use the rule of law to peacefully enforce my constitutional right of freedom of religion.

(Dialogue of a cartoon by Lectrr on 28 August 2019 (Lectrr 2019))

The excursion through the current accountability discussions and the attraction of omniscient ideologies brings us back to the beginning of our exploration – what are the underlying “orthodoxies” in contemporary democracies that undermine public trust in academia, in their attempt to streamline knowledge under the pretext of accountability? And in more practical terms – if we agree, in theory, that structured democratic voice is the remedy for poorly designed accountability that hampers institutional autonomy and academic freedom – what should be done if democracy itself is challenged/conditioned by non-falsifiable ideologies dominating the public debate on major societal issues?

As was eloquently argued by Lange (2016), economic imperatives coupled with the prevalence of scientific methods of natural sciences over the hermeneutic approach of the humanities narrow the concept of “good governance” to “monitoring and evaluation” that become an end in themselves, while the alternative of not making use of them seems not to be a given. A philosophical analysis conducted by Herman De Dijn (2014) makes similar observations but comes with the provocative explanation that an all-encompassing “ideology of self-determination” has permeated our (western) society at the expense of traditional institutions that have lost their influence and authority and in some cases have even evaporated completely.

According to De Dijn, this erosion reveals the more fundamental loss of social trust that enables human beings to live together with different individuals and groups. In contrast, a culture of distrust, coupled with an obsession with safety/security, has permeated all spheres of (late/“post”) modern society. This phenomenon is most visible in the increasing over-regulation of the education and health sectors, where professionals spend more and more time on reporting and accounting, reducing the time they can actually spend on performing their core duties. The author finally argues that (late) modern people can no longer deal with tragedy and finiteness. We do not accept that there is no solution for some (health) problems. Every risk must be excluded. This is coupled with a naive belief that we can make human life controllable through better and more sophisticated rules and regulations, as well as through interventions in all aspects of it.

One does not need to agree with all details of the proposed causalities between different societal phenomena in De Dijn's reasoning to appreciate his contribution from manifold perspectives, not least in the context of academic freedom. First of all, a link is drawn between the current crisis in democratic institutions and the threat of counterproductive accountability for universities. Most strikingly, the distrust of academia and of democracy and rule of law (as well as of the institutions that are entrusted to safeguard them) have similar origins.

Second, there appears to be a certain connection between populist trends that erode social cohesion, on the one hand, and some "orthodoxies" of modern society, such as the "innocent" Enlightenment-inspired concept of self-determination, on the other, provided that they are given the status of all-encompassing ideologies.

And finally, the analysis reinforces the observation – for instance from the fierce (social) media debates in Flanders in anticipation of and in the aftermath of the 2019 Parliamentary and European elections – that the current challenges to democracy and rule of law as "the default rules of the game" and the upsurge of populist trends have provided room for new irrefutable ideologies, strikingly affecting the populist movements in the first place, but also the political correct "orthodoxies" that become more and more entrenched in their own moral superiority claims, thus creating an ongoing vicious circle that irritates/alienates more and more voters.

In addition to the political sphere in the strict sense, the same phenomenon can be observed in the public debate on major societal issues such as climate change, immigration and multiculturalism, gender equality, artificial intelligence and transhumanism. All these themes are of great complexity by definition, requiring not only solid research but also a serene and nuanced debate without precluding any alternative in advance.

When integrating the outcomes of societal debates into their policies, policy makers can certainly benefit from the fact that, by "nature", academia is a safe space for such debates. Colleagues and researchers with a different view should not immediately be demonised and categorised in a discourse of pseudo-intellectual dichotomies such as conservatives vs liberals, religious obscurantists vs defenders of the Enlightenment, eco-fundamentalists vs climate change deniers, fascists vs communists, cultural elitists vs cultural Marxists, feminists vs patriarchists or even populists and politically correct thinkers. On the contrary, and to echo De Somer's words, a presumable error, mostly in the guise of a still embryonic scientific hypothesis, should be allowed to flourish throughout a methodical dialogue with the "orthodoxy" of a contingent academic consensus and – who knows? – to eventually shape a new breakthrough in the advancement of knowledge.

In a recent interview with Alicja Gescinska, journalists expressed their surprise at how a Belgian "liberal" author like her considered the British "conservative" philosopher Roger Scruton as her *maître à penser*. Gescinka replied:

I could always go to Roger for philosophical questions. Writing to him helps me to bring order in my thoughts. On paper you can better separate gut feeling from arguments. ... With Roger I often disagree on politics and philosophy. But we don't strive for agreement. This is what makes it beautiful, that appreciation despite differences. Is this not the essence of friendship? (De Foer and Goethals 2019: 10)

This is a contemporary illustration indeed of Aristotle's wisdom that the mark of an educated mind is its ability to entertain a thought without accepting it.

So yes, we may disagree with Roger Scruton in his support for Brexit and his rejection of the legal authority of international organisations, but still recommend his scientific work to every student interested in philosophy of art or even rejoice in his biting criticism of "neuro-nonsense" and transhumanism. And yes, Belgians may assume that they have reached the best possible institutional arrangement for the delicate balance between their different linguistic communities and still be charmed by political philosopher and economist Philippe Van Parijs' plea for "utopian" approaches to administrating Brussels and Belgium (Van Parijs 2018). Yes, we may stick to the principle of representative democracy and still congratulate the Antwerp political activist Manu Claeys (Claeys 2013, 2018) for his persistent rally for directly granting citizens a place in the driving seat of the process of democratic decision making about matters that concern them. And finally, we may have a certain distrust of societal discourses that put "identity" at the heart of the discussion, but at the same time be grateful to young Othman El Hammouchi who, as a Flemish secondary schoolboy, embarked on the bold endeavour "to untie the knot in the Western soul" by facing inconvenient truths about the place Muslims occupy in our society, about "atheistic fundamentalism", failures in our education system and naive views on geo-politics, without giving up on the duty of safeguarding the achievements of our liberal democracy and European culture as a whole (El Hammouchi 2018).

What is common to all these examples is that they represent "dissident voices" that refuse to bow to the authority of widely accepted doctrines, while making a genuine effort to remain intellectually honest. Although these authors do not expect their public to always (fully) agree with their positions, their refreshing look at society from an "engaged spectator's perspective" can be a powerful antidote for preventing public authorities, as well as the academic world itself, to succumbing to the oversimplification of complex matters. Finally, they are more than helpful allies for debunking the more hidden contradictions that underpin the "politically correct" discourse and for stimulating the uncensored reflection on societal issues that should precede any political decision.

CONCLUSION

Civil servants and academics have more in common than would remain concealed in an approach that defines the mutual relation between public authorities and academia in antagonistic terms. When it comes to professional deontology both are bound to nurturing and shaping structured democratic voice as a framework condition for decent (higher) education policies. Moreover, they struggle with the same irrefutable ideologies that create destructive distrust of both democratic rule and the role of academia as the custodians of the advancement of scientific knowledge.

While philosophy can, in theory, deliver us from ideology, the adage "primum vivere, deinde philosophari"⁸⁷ still holds true. The civil servant lives in the "real" world, ruled by political parties and, inevitably, ideologies.

87. To live first, then philosophise (life precedes philosophy). The phrase is often attributed to Hobbes but is probably of earlier origin.

But the academic, if granted a safe space for meandering between error and orthodoxy, sets an example of methodological mildness towards dissidence and trial and error. Academic freedom as “the most political and plural exercise” (Lange 2016) may offer inspiration to the civil servant on how to cope with the world of ideologies and how to assume public responsibility therein.

The notion of “evidence-based” or “research-informed” policy making all of a sudden regains a new and refreshing meaning!

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Academic freedom, institutional autonomy and the future of democracy: a view from teaching professionals

Rob Copeland and Jens Vraa-Jensen

ABSTRACT

Among the member states of the European Higher Education Area (EHEA), we are witnessing open and obvious violations of fundamental values such as academic freedom, institutional autonomy and collegial governance by authoritarian governments. Major examples include Turkey, where academics have been dismissed for exercising freedom of expression, and Hungary, where the Central European University has been constrained to move its key operations to Austria.

At the same time, academic freedom is also being undermined by the ongoing marketisation of higher education and research. In this chapter we emphasise the role played by performance-based funding, corporate forms of university governance and detrimental changes to the employment conditions of academic staff that are eroding academic freedom in “liberal democracies” such as Denmark and the United Kingdom. Furthermore, we explore these processes within the context of changes to the purposes and mission of universities, and in particular, the pressure to improve employability and economic competitiveness at the expense of a critical understanding of current economic and political structures.

In the final section, we argue for improved legal protection of fundamental values, especially academic freedom, but also for changes in policies and practices within higher education institutions.

INTRODUCTION

In its valuable work on higher education, the Council of Europe and others have highlighted the symbiotic relationship between academic freedom/institutional autonomy and democracy. Fundamental values such as academic freedom and institutional autonomy are seen as integral to democratic societies and therefore it is difficult for them to flourish in the absence of democratic institutions and a democratic culture (Bergan et al. 2016).

Moreover, we would argue that this essential point (the interconnection between fundamental values and democracy) has been illustrated by recent global developments and in particular the growth in authoritarian governments, who have

identified universities and academics – along with the press – as their ideological opponents and therefore have subjected them to increased surveillance, interference and repression (Scholars at Risk 2018).

Within the European Higher Education Area (EHEA), the process has been most apparent – and most rapid – in Turkey. There the protection of academic freedom – already weak compared to most other countries in the EHEA – has worsened since the State of Emergency was introduced by the Erdoğan government in July 2016. Since then we have seen massive violations of academic freedom, including thousands of dismissals of academics and other public servants (Amnesty International 2018), judicial investigations and trials and the confiscation of passports. The persecution of the “Academics for Peace” – signatories of a petition calling for the pursuit of peace talks between the Turkish government and Kurdish representatives in the south-eastern region of Turkey – remains the paradigmatic case with respect to violations of academic freedom in Turkey (Ugur 2016; Baser, Akgönül and Öztürk 2017; Human Rights Foundation of Turkey 2019). These attacks on academic freedom have also been combined with a further erosion of university autonomy in Turkey, including the increased use of party-political appointments as university rectors and state interference in decisions made by supposedly autonomous bodies such as the Higher Education Council (YÖK) and the Scientific and Technological Research Council (TÜBİTAK) (Middle East Studies Association 2017).

Elsewhere in Europe, we have seen threats to university autonomy, including government actions to close down or otherwise restrain higher education institutions in central and eastern Europe. One of the clearest examples within the European Union (EU) has been in Hungary and the legislative pressure put on the Central European University (CEU) to effectively shut down a major part of its operations in Budapest (Ignatieff 2018). More recently, this has been widened to include increased political interference in the university curriculum in Hungary, in particular the proposal to close down all gender-studies courses in the country (Wilson 2018).

FUNDAMENTAL VALUES IN THE EHEA

These violations have led to increased focus on fundamental values in European higher education, including within the Bologna Process. Previously, the safeguarding of fundamental values was largely confined to new applicants to the Bologna Process, in particular the special case of Belarus. In order to deal with this situation, an additional monitoring procedure⁸⁸ was put in place by the Bologna Follow-Up Group to reflect concerns about the absence of institutional autonomy and student freedoms in Belarus. More recently, the need to protect and promote fundamental values across the entire EHEA has moved centre-stage, culminating in the language adopted by the ministerial communiqué in Paris in 2018:

Academic freedom and integrity, institutional autonomy, participation of students and staff in higher education governance, and public responsibility for and of higher education form the backbone of the EHEA. Having seen these fundamental values challenged in recent years in some of our countries, we strongly commit to promoting

88. Known as the Belarus Roadmap, available at www.ehea.info/media.ehea.info/file/2015_Yerevan/70/9/Roadmap_Belarus_21.05.2015_613709.pdf, accessed 2 July 2019.

and protecting them in the entire EHEA through intensified political dialogue and co-operation. (Bologna Process 2018)

An increased focus on fundamental values and challenging the way in which political authoritarianism is being used to undermine both institutional autonomy and academic freedom is to be welcomed. At the same time, there needs to be a much greater focus on academic freedom as a fundamental value in its own right, because in the words of Matei and Iwinska:

University autonomy has attracted a lot of attention in the higher education scholarship, policy thinking and regulatory reforms on the continent. Academic freedom, on the other hand, is a largely disregarded and underdeveloped area. (Matei and Iwinska 2018: 350)

We would argue that a renewed focus on safeguarding fundamental values must also involve a more nuanced understanding of the relationship between institutional autonomy and academic freedom and a recognition that threats to academic freedom exist in liberal democracies as well as more authoritarian political systems in Europe. Above all, it is our contention that academic freedom is also being undermined by the marketisation of higher education by governments and institutional leaders, sometimes using the language of greater institutional autonomy, particularly over financial, organisational and staffing matters. We elaborate on these points in the following section of the paper and outline a positive agenda for the protection of academic freedom, including the key “supportive elements” of collegial governance and job security (Karran and Mallison 2017).

THE IMPACT OF THE MARKETISATION OF HIGHER EDUCATION ON ACADEMIC FREEDOM

Before outlining the impact of marketisation on individual academic freedom, it is important to establish a clear definition of “academic freedom”, including its relationship to institutional autonomy. The key starting point remains the 1997 UNESCO recommendation concerning the status of higher education teaching personnel, which defines academic freedom as

the right, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies. (UNESCO 1997)

The 1997 recommendation identifies a strong link between academic freedom and collegial governance, which includes the right of academic staff “to take part in the governing bodies and to criticize the functioning of higher education institutions, including their own ... and they should also have the right to elect a majority of representatives to academic bodies within the higher education institution” (ibid.). This enables academic staff to exercise “freedom of intramural expression”, which enables them not only to teach according to their knowledge, but also to take part in the governance of their institutions (Finkin and Post 2009).

Another key element in the 1997 recommendation – often overlooked in recent discussions on the topic – is the importance of job security (i.e. tenure or its functional

equivalent) as “one of the major procedural safeguards of academic freedom and against arbitrary decisions” (UNESCO 1997).

Finally, the 1997 recommendation identifies university autonomy as “the institutional form of academic freedom and a necessary precondition to guarantee the proper fulfilment of the functions entrusted to higher-education teaching personnel and institutions” and states that this is a right to be protected and defended by member states (*ibid.*). At the same time, the document recognises that “autonomy should not be used by higher education institutions as a pretext to limit the rights of higher-education teaching personnel” (*ibid.*). This is a critical distinction as there remains the risk of a highly autonomous higher education institution providing a low level of protection for academic freedom. For example, the United Kingdom’s higher education system comes out near the top of the European University Association’s Autonomy Scorecard, while comparative research has shown that British academics enjoy relatively low levels of *de jure* and *de facto* protection of their academic freedom (Karran and Mallinson 2017). While this stems partly from the unusual constitutional framework in the United Kingdom, it also reflects the extent to which marketisation of higher education is more advanced in that country, especially within England, than in the rest of the EU.

Looking at higher education policy in Europe over the past few decades, changes in three main areas stand out: changes to funding, to governance and to job security – all of which have had a largely negative impact on the core elements of academic freedom as defined by the 1997 UNESCO recommendation.

REDUCTION IN CORE PUBLIC FUNDING

First, in terms of funding, we have seen a reduction in core public funding for teaching and research in many European countries. The global financial and eurozone crises have had a major effect on the budgets of higher education institutions in Europe. Surveys conducted on behalf of the European Trade Union Committee for Education (ETUCE) show that cuts in national public budgets throughout Europe have resulted in negative consequences for quality in the education sector, including public higher education and research (ETUCE 2017). In addition to budget cuts, we have seen major changes in the nature of funding, particularly on the research side, which have had an impact on academic freedom. Key developments include the expansion of project-based funding (and the impact that this has had on job security), the introduction of performance-based assessment systems such as the United Kingdom’s Research Excellence Framework, a greater pressure to bring in private sources of funding and a strong bias towards large-scale initiatives, particularly in STEM (Science, Technology, Engineering, Mathematics) subjects (Clarke 2015). As a result, an increasingly selective and economicist funding model has put pressure on academics to either publish in a narrower range of high-impact journals and/or to focus on more applied and technically oriented fields and project areas. As Professor Nelly Stromquist has argued:

A collateral effect of this is that important disciplines, particularly the social sciences and the humanities/arts, are receiving less attention. It is feared that the slow marginalization of fields that promote self-reflection and critique of contemporary existence

is not conducive to the development of social and cohesive society. (Stromquist 2017: 10).

CORPORATE FORMS OF INSTITUTIONAL GOVERNANCE

The second main development has been the introduction of corporate forms of institutional governance taken from the private sector. Some of the key developments include a reduction of academic staff on university governing bodies (ETUCE 2016), fewer elections for senior university appointments and a more managerial culture within higher education institutions, with a strong emphasis on protecting the “university brand” in the context of increased competition for students, research grants and institutional rankings. All of these developments have resulted in reduced academic staff involvement in institutional life and a greater difficulty for academics to exercise their freedom of intramural expression.

This process has taken place in many countries throughout Europe and beyond in recent decades, but one of the most illustrative is the case of Denmark. The Danish law on universities places the overall power over the universities with a board containing a majority of external members. The board appoints a rector, who appoints the deans, who in turn appoint department heads – a very hierarchical system, where legitimacy and responsibility are found upwards in the system and not among the academic community. The Academic Councils are mainly advisory bodies with only very limited decision-making powers. In other words, the basic principle of governance based on collegial and elected bodies has been abolished. The legal protection of academic freedom and institutional autonomy is reduced to the following clause in § 2 of the University Law: “(2) The university has academic freedom. The university must safeguard the academic freedom of the university and the individual and the ethics of science” (Danish University Act 2011). There are numerous examples of how this weak protection has led to a climate of fear among academics who are fearful of being sanctioned (or even fired) if they express critical views about their university. Similarly, university management has become more focused on generating income than on protecting basic values, including the freedom to publish the results of externally funded research. For many leaders, the main focus appears to be the establishment of a clear “corporate identity” that is underpinned by strategic managerial planning. The main victim of this priority is the ability to stimulate a free and open debate on scientific and university developments.

JOB SECURITY

The third main area concerns job security. It is vital for the quality of higher education and research that academics are free to question received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy, including losing their job. Traditionally, tenure or its functional equivalent has been one of the key procedural safeguards for enabling them to exercise their academic freedom. However, in recent years we have seen an erosion of tenure and a growth in fixed-term and precarious employment in both European and global higher education systems (European Commission/EACEA/Eurydice 2017; ILO 2018a). The key point is that staff on these contracts are often excluded

from meaningful participation in academic and institutional governance and their precarious employment also makes it harder for them to exercise their rights to challenge funders and university management about decisions over research priorities and university curricula and assessment.

As mentioned above, one of the discernible effects of changes to funding, governance and employment in European higher education has been increased self-censorship by academic staff in all aspects of the role, including the right to criticise one's own institution. A recent survey of academic staff in Europe found that 19.1% of EU respondents admitted to having subjected themselves to self-censorship at work for fear of negative repercussions, such as loss of privileges and demotion, while a similar survey conducted on behalf of the University and College Union found that the comparable figure for academics based in the United Kingdom was 35.5% (Karran and Mallinson 2017: 1). In addition to self-censorship, the research found examples of more direct threats to academic staff. For example, the survey conducted by the University and College Union found that 23% of UK-based respondents (and 14% of EU-based respondents) reported being bullied as a result of their academic views (*ibid.*).

At the heart of the current problem is the attempt to redefine the main purposes of higher education. We strongly support the view that education – including higher education – is a human right and a public good and that admission to higher education must be based on the intellectual rather than the financial capacity of the applicant. We support the definition by the Council of Europe that the purpose of higher education should be based on the following four pillars:

- ▶ to enhance the general knowledge base of society;
- ▶ to develop the student's personal capacities;
- ▶ to teach students to become active citizens in modern democracies;
- ▶ to improve employability (Council of Europe, 2007).⁸⁹

In our view, universities have a unique role and mission in a democratic society, which is to be a critical voice for developing a deeper understanding of the world. In order to be able to fulfil this mission, there is a need to embed strong protections for academic freedom, institutional autonomy (for the purpose of being able to criticise governments without fear of reprisal) and collegial governance structures with elected forms of academic leadership. If these protections are lacking, the mission is threatened.

As a result, we strongly oppose the more instrumental/neoliberal view that the main purpose of higher education and research is to create new jobs in the economy and to enhance economic competitiveness. If the purpose and mission of universities is reduced to supporting the short-term interests of governments and/or private corporations, there will not be the same need to protect academic freedom. Institutional autonomy – on the other hand – will be better protected for the purpose of being able to make fast adjustments to changes in the surrounding society,

⁸⁹. The wording paraphrases rather than reproduces that of the Council of Europe recommendation.

and thus enhance competitiveness and improve ratings in league tables and rankings (Vraa-Jensen 2019).

The development of “academic capitalism” or “entrepreneurial universities” (Slaughter and Rhoades 2004) and the change of purpose from serving the public good and the long-term development of our societies towards serving the immediate needs and interests of private corporations or political forces is as significant a risk to the basic values and function of universities as state-led violations of academic freedom and institutional autonomy. Therefore, the current agenda on protecting and promoting fundamental values in Europe must also address the challenges caused by the marketisation of higher education, particularly on academic freedom, across the full range of EHEA countries.

THE ETUCE RESPONSE

In response to both rising political authoritarianism and marketisation of higher education, the education trade unions in Europe – under the umbrella of ETUCE – have made academic freedom one of their strategic priorities over the next few years. At the ETUCE conference in Athens in December 2018, the conference passed a resolution on strengthening academic freedom in Europe (ETUCE 2018b).

First, the resolution calls on governments to commit to improving the legal protection of academic freedom at the national level but also to look again at current policies, practices, funding models and cultures within the higher education sector. This means a return to greater core public funding for teaching and research and meaningful staff and student participation on governing bodies (ETUCE 2018a). It also means re-establishing the essential connection between job security and academic freedom. Trade unions have been at the forefront of campaigns to improve the status of fixed-term staff, but it is now the time for governments and university leaders to take the issue of casualisation⁹⁰ more seriously as an educational as well as an industrial relations issue.

Second, ETUCE welcomes the increased emphasis in the Bologna Process on strengthening fundamental values in higher education. A key area will be to develop greater consensus on how to measure and monitor values such as academic freedom and governance that goes beyond self-reporting from governments and an exclusive focus on legal protection and compliance. There is a developing academic literature (Karran, Beiter and Appiagyei-Atua 2017; Hoffmann and Kinzelbach 2018) on how to move forward in this area and we welcome the establishment of the task force for the future monitoring of values established under the direction of the Bologna Follow-Up Group.⁹¹ Capturing the voices of staff and students (for example, through the use of institutional surveys) will be an important part of the evidence base.

Finally, the ETUCE resolution calls on governments to show greater willingness to upholding international commitments to academic freedom and institutional

90. “Casualisation” designates the transformation of a workforce from one employed chiefly on permanent contracts to one engaged on a short-term or casual basis.

91. See www.ehea.info/page-monitoring-WG1, accessed 2 July 2019.

autonomy. As mentioned above, a key document is the 1997 UNESCO recommendation concerning the status of higher education teaching personnel. Although the recommendation is not legally binding, the document “calls on Member States to uphold their commitments under the Recommendation”. In addition, this document remains underused by the higher education sector, including trade unions who are able to submit appeals to the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel – known as CEART. We therefore support calls for the greater promotion of the 1997 recommendation and more resources for the CEART to undertake their work (ILO 2018b).

In Europe, it also means greater engagement with the work of the Council of Europe on the key role of academic freedom and institutional autonomy within democratic societies. In particular, we would like to draw attention to the continuing relevance of the 2006 Parliamentary Assembly recommendation on academic freedom and institutional autonomy. One of its key messages is the importance of fundamental values to social, economic and cultural development and a warning from the past that “history has proven that violations of academic freedom and university autonomy have always resulted in intellectual relapse, and consequently in social and economic stagnation” (Parliamentary Assembly of the Council of Europe 2006). We urge authoritarian and neoliberal governments across Europe to recognise the dangers of the current paths they are taking with respect to higher education and research.

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**Academic freedom,
institutional
autonomy and the
future of democracy:
suggestions for action**

Reflections on the Global Forum and suggestions for action

Tony Gallagher

INTRODUCTION

Universities are enduring civic institutions that have played a key role in society for hundreds of years, a point well noted by Labaree when he said that:

About eighty-five institutions in the western world established by 1520 still exist in recognisable forms... including the Catholic Church, the parliaments of the Isle of Man, of Iceland, and of Great Britain, several Swiss cantons, and seventy universities. (Labaree 2017: x)

Inevitably their character and role have changed over time, from the cloistered institutions of the “ivory tower”, that provided space for reflection away from the humdrum immediacies of the outside world, through to the advent of mass higher education from the latter half of the 20th century onwards (PVC Engagement 2009). There are today more higher education institutions than ever before, though estimates vary widely⁹² and there are more young institutions than ever before. The students who attend the higher education institutions are more diverse than ever before and probably reflect the diversity of the societies in which they are based to a greater extent than ever before (Sarrico, McQueen and Samuelson 2017; OECD 2019). And the likelihood is that the number and diversity of institutions and students will grow further.⁹³

Throughout this long history the role of higher education institutions has changed. The cloistered institutions reflected their essentially religious purpose and many of these had emerged from monasteries or madrassas. As the range and type of institutions has expanded, the Council of Europe has emphasised their core mission of education, research and public service and the importance of higher education as a public good and public responsibility (Bologna Process 2001, 2003). Consistent with this is the delineation of the diverse range of purposes for higher education:

- ▶ higher education should prepare students for sustainable employment;
- ▶ higher education should provide preparation for life as active citizens in democratic societies;
- ▶ higher education should contribute to the wider personal development of students;

92. See www.qs.com/claim-place-amongst-top-1-world-universities/, accessed 27 September 2019.

93. See <https://ourworldindata.org/tertiary-education>, accessed 27 September 2019.

- ▶ higher education institutions should contribute to the development and maintenance, through teaching, learning and research, of a broad, advanced knowledge base (Council of Europe 2007).

This chapter offers some reflections on the presentations and discussions at the Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy, held in Strasbourg in June 2019. The Global Forum was held because academic freedom and institutional autonomy are becoming increasingly important components of a global discussion of how democracy develops – and how it should develop. It was motivated by a need to develop a more sophisticated understanding of how academic freedom and institutional autonomy can best be developed and defended in modern, complex societies, not least because of the growing pressure to which these fundamental democratic values are subjected in many countries. The Global Forum brought together about 150 higher education leaders and representatives of public authorities and NGOs from Europe and the United States, as well as smaller numbers from Australia, Asia, Africa, the Middle East and Latin America, who examined a broad range of issues related to academic freedom and institutional autonomy, from politically motivated attacks on them to the effect of general public policies and legislation. The goals of the forum were to increase commitment to higher education's contribution to developing and advancing a culture of democracy and to promote a better understanding of how academic freedom and institutional autonomy relate to the future of democracy. The Global Forum will also provide input to the 2020 Ministerial Conference of the European Higher Education Area.

MAKING A DIFFERENCE

Right from the opening session we were reminded of the social role of higher education when Ira Harkavy, Associate Vice President and founding Director of the Barbara and Edward Netter Center for Community Partnerships, University of Pennsylvania, highlighted Martin Luther King's comment that "intelligence is not enough; intelligence plus character is the goal of education". In the 1947 campus newspaper from which this quote is drawn, King went on to say: "The complete education gives one not only power of concentration, but worthy objectives upon which to concentrate". Indeed, in a statement which seems prescient today, and to which I will return, King went further when he suggested that:

Even the press, the classroom, the platform, and the pulpit in many instances do not give us objective and unbiased truths. To save man from the morass of propaganda, in my opinion, is one of the chief aims of education. Education must enable one to sift and weigh evidence, to discern the true from the false, the real from the unreal, and the facts from the fiction.⁹⁴

The most powerful contemporary statement on this is provided by the Magna Charta Universitatum, which was signed by 388 rectors and heads of universities from all over Europe and beyond on 18 September 1988, the 900th anniversary of the University of Bologna. The Magna Charta Universitatum contains principles of academic freedom and institutional autonomy as a guideline for good governance

94. See http://okra.stanford.edu/transcription/document_images/Vol01Scans/123_Jan-Feb1947_The%20Purpose%20of%20Education.pdf, accessed 27 September 2019.

and self-understanding of universities and, to date, has been signed by 889 universities from 89 countries.⁹⁵ Its centrality to the themes of the Global Forum were reflected in the widespread reference to it throughout presentations and, indeed, in the contributions to this volume.

The Magna Charta states that, in addition to spreading knowledge among younger generations they must also “serve society as a whole” and that in order to achieve this their teaching and research must be “morally and intellectually independent of all political authority and economic power”. This freedom in research and teaching not only must affect the relationship of the institutions with public authorities, but also the life of the university itself:

Rejecting intolerance and always open to dialogue a university is an ideal meeting-ground for teachers capable of imparting their knowledge and for students entitled, able and willing to enrich their mind with that knowledge. (Magna Charta Universitatum 1988)

THE CHALLENGE OF COMMODIFICATION

The importance of this fundamental document continues, but new challenges to academic freedom and institutional autonomy have emerged. One of these lies in the risks caused by the commodification of higher education and a narrowing of focus on economic considerations (Gallagher 2018a). As noted above, mass higher education has produced more diverse student bodies and, in consequence, focused attention on participation rates and the continuation of arbitrary barriers, particularly for minorities. This, in turn, has increased the focus on engagement between higher education institutions and society and the growth of new forms of outreach, including widening access programmes; community-based teaching programmes; the encouragement of staff and student volunteering; and the growth of applied research programmes that are based in, and engaged with, local communities (Goddard and Vallance 2013).

At the same time, Goddard and Vallance (*ibid.*) highlighted that these social programmes usually sat alongside programmes with the more specific aim of using universities as part of an economic agenda for – usually urban – regeneration. They contrasted the level of strategic commitment and investment in economic and regeneration activities with the much looser support for social programmes and offered four main explanations. First, the social programmes were not as wide-ranging or strong as those developed to support economic development. Second, the social programmes were often ad hoc and based on short-term funding streams. Third, it was often believed to be more difficult to embed the social programmes in the mainstream academic activities of the university, which added to their sense of peripherality; and finally, the social priorities and programmes were less well recognised, or supported, by government, in contrast to the strategic significance often attached to the economic and regeneration priorities. The risk is that the social programmes of engaged universities might become peripheral in comparison with better funded, strategic and policy-embedded economic agendas. Alongside this is the risk of a narrowed purpose provided by the pressure to commercialise knowledge through industry partnerships, the priority attached

95. See www.magna-charta.org/magna-charta-universitatum/signatory-universities, accessed 27 September 2019.

to STEM⁹⁶ subjects, as if the singular purpose of a higher education qualification was preparation for a specific occupational niche, and the changed relationship between an institution and its students that can be created by ever-increasing tuition fees and a shift from public to private investment in higher education.

THE CHALLENGE OF POLITICAL POPULISM

A second challenge comes from the rise of political populism. There is a long tradition to populist politics, some of which reflects progressive tendencies in some polities, but its contemporary manifestation appears bereft of endearing qualities. It is manifested, at least in Europe, by an unusual volatility in voting patterns; the sudden collapse of support for traditional parties and the unexpected growth of support for previously peripheral parties of the political extremes; and the sudden emergence of entirely new political movements. It is affected by fear of immigration, economic crises and reduced levels of trust in traditional institutions, but it is not easily explained by any one of these variables.

Eatwell and Godwin argue that education plays a particularly important role: “education ... has a very strong influence on our values and the way in which we interpret the world around us” (Eatwell and Goodwin 2018: 25-27) and seems to be linked to levels of support for populist politicians. For example, in their analysis they point to the facts that in the 2016 Brexit referendum in the United Kingdom, among young people (aged under 37 years) 80% of those with university degrees voted to remain in the European Union, in comparison with only 37% of those who did not hold university degrees. In a different context, but in the same year, they showed that college graduates in the United States Presidential election supported Clinton over Trump by a margin of 52% to 43%, while those without a college degree backed Trump over Clinton by a margin of 52% to 44%. The main point Eatwell and Goodwin take from this is that as the proportion of the population with higher-level qualifications has increased, the negative consequences for those who do not have these qualifications has also increased. This has led, they argue, to divergent interests, aspirations and resentments, so that the educational level now provides a key variable mediating support for populist politicians.

The problem of populism lies in the preference of its adherents for emotional appeals, often focused on racial, ethnic and/or religious prejudices over reason, and the loose relationship many of them seem to have with anything that might reasonably be thought of as passing for “truth”. Concerns are also being expressed about the role of social media as an “echo chamber” for this “post-truth” rhetoric and, even more seriously, about the deliberate attempt to manipulate and undermine democratic processes through targeted social media campaigns. While all this is regrettable in its own terms, it presents a specific challenge to higher education institutions as one of our core activities based on the development of “a broad, advanced knowledge base” (Council of Europe 2007) for which concepts of truth and expertise are central. In this respect, helping our students navigate the huge volume of information that is now readily available through social media, and develop higher levels of discernment in the assessment of the value of information and claims, becomes

96. Science, Technology, Engineering and Mathematics.

an increased priority. It is a truism that “it is hard to find drinking water in a flood”, but this is what we are increasingly expecting our students to do.

UNDERSTANDING INSTITUTIONAL AUTONOMY

We are fortunate when we come to discuss the issue of institutional autonomy if only because we have a framework and some data to inform our discussion. The European University Association (EUA) has established a framework to measure and monitor institutional autonomy in Europe. The framework breaks the concept of autonomy into four distinct areas.

- ▶ Organisational autonomy, which is linked to procedures for the appointment of the executive, the membership of the governing body and the capacity to decide on academic structures.
- ▶ Financial autonomy, which relates to the type and level of public funding, the capacity to charge tuition fees or borrow money and the ability to own buildings.
- ▶ Staffing autonomy, which relates to the ability to decide on recruitment, promotion and dismissal procedures, and to decide on salary levels.
- ▶ Academic autonomy, which includes the capacity to decide on student numbers, to design, introduce or terminate programmes, and to select quality assessment procedures.

Each autonomy strand has a series of specific indicators that can be measured and data provided on for European and national levels. To date, two reports have been published, in 2011 and 2017, which allows for the examination of trends over time (EUA 2017).

Examination of trends suggests that there has been a general improvement in the level of organisational autonomy in relation to governance arrangements, though in some countries this has been limited by financial constraints. Hungary is identified as an isolated case where direct interventions by the state has aimed to assert more control over university activities (ibid.: 54). Trends in financial autonomy have been a little more variable, partly as a consequence of funding cuts more generally and differing approaches to giving autonomy to institutions on tuition fees for home and international students. Some countries have moved to multi-year funding decisions, which provides greater scope for long-term stability and planning for higher education institutions, but in other countries there has been increased earmarking or segmenting of public funds. The case of Hungary also emerges as an outlier as the state is seeking to take on a more direct role in all financial decisions. Staffing autonomy remains fairly stable, though in part this is as a consequence of the status of academic staff as civil servants. There is some evidence that academic autonomy is being enhanced as a consequence of the transition in some systems towards institutional external quality assurance systems, such as institutional accreditation, audits or reviews. There remain a variety of practices in relation to student admissions, including systems that permit free admission for everyone holding basic qualifications, to a set quota of available places, to permitting higher education institutions to decide on the number of places (ibid.). Whereas the first three strands of autonomy show a mixed pattern of change, with levels of autonomy moving up or

down fairly evenly across countries, for academic autonomy there is a general trend of increasing levels of autonomy across countries.

Of course, in the context of our discussion in the Global Forum on the civic and democratic role of higher education, the issue of institutional autonomy is not simply for the institutions but relates also to the nature and context of engagement between the institutions and society. To posit a democratic role for higher education institutions implies some sense of responsibility to society, not just to engage, but to engage in particular ways. Brophy and Godsil (Brophy and Godsil 2009: 147), highlighted the way in which engaged universities can make huge progress in “improving the communities in which they are located” while Benson et al. (2017) argue that the social imperative is far from being a new imaginary, but rather a fulfilment of the Baconian commitment to a form of science that sought to engage with real-world problems. As I pointed out in a previous paper (Gallagher 2018b), Ball (2010) has shown how Bacon criticised both the “cloistered philosophers”, whom he compared to spiders weaving tenuous philosophical webs, and the “blind fumbblings of uninformed practical technologies”, which he compared to the “mindless task of ants”. By breaking away from the false dichotomy provided by the abstractions of pure science and the immediacy of technologists, Bacon argued that true scientists “should be like bees . . . which extract the goodness from nature and use it to make useful things” (ibid.). In this context, institutional autonomy refers to the capacity of an institution to set its own course, but the moral and democratic imperative implies that some courses are of more social priority than others. Indeed, negotiation with public authorities on exactly these underpinning priorities can and should be a part of the process of engaging with issues of value and impact.

UNDERSTANDING ACADEMIC FREEDOM

A significant part of our discussions in the Global Forum highlighted a theme that engages directly with academic freedom and has become increasingly prominent within higher education in particular. This is a theme that is discussed in many of the chapters of this volume and it concerns the relationship between academic freedom and freedom of expression. It has come into strong focus in higher education institutions as a consequence of high-profile cases where controversial speakers have been banned or prevented from speaking on university campuses. This is nothing especially new, of course, though social media has provided a new resonance to some of the controversies. What is more novel is the demand to constrain what can be said in classes, through trigger warnings for content that some might find upsetting, or through allegations of political bias or micro-aggressions (Runyowa 2015). Some of these new phenomena arise from the increased diversity among student bodies and the claim that mores from a previous, more elitist age have no place.

As we have seen in chapters in this volume, these issues have arisen in many different countries and have been addressed in a variety of different ways. One potentially fruitful way to frame the discussion has been provided by Chemerinsky and Gillman, who attempt to engage with the dilemma raised by this issue:

Campuses must take these issues seriously. But the effort to create inclusive learning environments cannot proceed at the expense of free speech and academic freedom.

Colleges and universities cannot accomplish their modern missions of knowledge creation and dissemination unless their scholars and students are free to think and express any idea, especially those that challenge or test conventional wisdom. But colleges and universities also cannot accomplish their modern missions if they are places of privilege and exclusion, rather than gateways of inclusive excellence. (Chemerinsky and Gillman 2017: 154-155)

They argue that a possible solution may lie in differentiating between the professional educational space of the classroom and the public space of the campus. In the professional educational space of the classroom there are academic norms and standards that frame the issues. Thus, it is not appropriate to censor a lecturer on the basis that what is being said is offensive, but it is appropriate to ask if what is being said “complies with relevant professional standards” (ibid. 135). From this perspective academic freedom might allow for the right of professors to

express themselves in class with passion, but also to note their obligations to be judged by professional standards and to defend the rights of their students ... Neither free speech principles or academic freedom gives a faculty member the right to use the classroom as his or her personal platform for the expression of political opinions without regard to professional norms, or to prevent students from having their fair opportunity to express views without fear of being punished. (ibid. 134-135).

In the public space of the campus, however, they offer a much more expansive, and less censorious, view in which a much freer expression of ideas, however controversial, should be permitted:

Promoting an inclusive culture of mutual respect, tolerating diverse and controversial views, and working through differences by way of conversation rather than intimidation are essential not only to higher education. They are also how free, diverse, democratic societies must behave if they are to remain free, diverse and democratic. (ibid. 159).

That is not to say, however, that they advocate licence: no one has a right to cause another person to reasonably fear for their physical safety, and speech cannot be used to harass an individual on account of their race, sex, religion or sexual orientation. But simply being offensive, controversial or outspoken should not provide grounds for censorship on university campuses: indeed, they argue, these are the very places that should encourage debate on these types of issues.

Whatever one thinks of the merits of Chemerinsky and Gillman’s (2017) argument, the discussion on this issue during the Global Forum, and to some extent in some of the chapters of this volume, highlights a sense that we had not clearly articulated, with clarity what we meant by academic freedom within our own community. Unlike the issue of institutional autonomy, we had not yet developed a framework to guide our discussion and consideration. The declaration emerging from the Global Forum addressed this by highlighting the “double duty” of members of the academic community

to challenge received knowledge and understanding through high-quality research, teaching, and enquiry, and to use their academic freedom to further the common purposes and improvement of our societies.⁹⁷

97. Article 5, <https://rm.coe.int/global-forum-declaration-global-forum-final-21-06-19-003-/16809523e5>, accessed 30 September 2019. The declaration can also be found in this volume.

The declaration went on to state that campuses must be

fora of vigorous debate and honest pursuit of truth, guided by the desire to help all human beings. Any limits on freedom of expression must be based on protection of the specific rights of others (e.g., to protect against discrimination or defamation) rather than on expediency or to advance a single political ideology.⁹⁸

The declaration further stated that this is a responsibility for academics, higher education institutions and their leaders, and public authorities, supported by international networks and organisations. It underscored the responsibility of higher education for advancing and disseminating knowledge and developing ethical and able citizens and playing an essential role in modern democratic societies.

ARTICULATING A WAY FORWARD: SUGGESTIONS FOR ACTION

Fortunately, we do have some anchors upon which it is possible to begin a more focused discussion. We can draw on frameworks articulated during the Global Forum arising from the Bologna Process in the European Higher Education Area (Curaj, Deca and Pricopie 2018) and the considerations of the Organization of American States and the declaration adopted at the Global Forum itself. We could focus some of our discussion on the various standards that help inform and guide academic disciplinary practice, whether this is provided by ethical, professional or legal standards or the academic values that underpin our work. And we can draw upon bodies of work that address issues of direct relevance, such as the Council of Europe framework of competences for democratic culture (Council of Europe 2018a, 2018b, 2018c).

The Global Forum in Strasbourg drew to a close on Midsummer, which was also a Friday and the 44th day of Greta Thunberg's *Skolstrejk för klimatet* (School strike for the climate). That coincidence, and some impassioned pleas from delegates at the forum, reminded us that an important source of inspiration for this conversation should be our students. There are many pressing "wicked problems" that could provide the focus for higher education engagement with society in pursuit of progressive, common and democratic goals, but there seems to be a growing realisation that climate change is one of the most pressing. We can probably thank our students for that, as many felt they were far ahead of the academy in recognising this. And we can work together productively to articulate more clearly our perspectives on academic freedom and institutional autonomy.

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Declaration adopted by the Global Forum

The Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy was held at Council of Europe headquarters in Strasbourg on 20 and 21 June 2019 and co-organized by the Council of Europe; the International Consortium for Higher Education, Civic Responsibility and Democracy; the Organization of American States; the Magna Charta Observatory; and the International Association of Universities.

Participants in the Global Forum adopted the following:

DECLARATION

Education, including higher education, is responsible for advancing and disseminating knowledge and developing ethical and able citizens. It therefore plays an essential role in modern democratic societies. Education is key to developing, maintaining, and sustaining a culture of democracy without which democratic laws, institutions, and elections cannot function in practice: education furthers and supports a set of attitudes and behaviours that seeks resolution of conflicts through dialogue; that accepts that while majorities decide, minorities have certain inalienable rights; and that sees diversities of background and opinion as a strength rather than as a threat. Education at all levels is therefore critical in helping develop the values, ethic, and ways of thinking on which democratic societies are based and which strengthen opposition and resilience to terrorism and violent extremism.

1. Higher education can only fulfil its mission if faculty, staff and students enjoy academic freedom and institutions are autonomous; principles laid out in the Magna Charta Universitatum as well as the UNESCO Recommendation on the Status of Higher Education Teaching Personnel. Academic freedom and institutional autonomy are essential to furthering the quality of learning, teaching, and research, including include artistic creative practice – quality understood as observing and developing the standards of academic disciplines and also quality as the contribution of higher education to democracy, human rights, and the rule of law. Higher education must demonstrate openness, transparency, responsiveness and accountability as well as the will and ability to work with and contribute to the communities in which colleges and universities reside.
2. The future of democracy is at risk in the absence of academic freedom and institutional autonomy, just as it is when the press, media or civil society organizations are weakened and compromised. Increasingly, these freedoms and institutions are threatened and undermined. The community of faculty, staff and students as well as higher education leaders must combine autonomy and accountability, freedom of research and teaching, and societal responsibility.

3. Faculty, staff, and students, higher education leaders, and public authorities can and should support academic freedom and institutional autonomy and contribute to its implementation. Equally, each can harm, limit and undermine these fundamental democratic values, as we see in too many instances in too many parts of the world. Countries that have counted among the established democracies are not immune to the temptations of silencing critical voices in academia: the Central European University – which provided the keynote address at our Global Forum – is but one example.
4. While academic freedom may be understood as the freedom of expression aligned with the standards of knowledge and research, members of the academic community have a double duty: to challenge received knowledge and understanding through high-quality research, teaching, and enquiry, and to use their academic freedom to further the common purposes and improvement of our societies.
5. Campuses must be fora of vigorous debate and honest pursuit of truth, guided by the desire to help all human beings. Any limits on freedom of expression must be based on protection of the specific rights of others (e.g., to protect against discrimination or defamation) rather than on expediency or to advance a single political ideology.
6. Institutional autonomy is often understood through the prism of the legal relationship between higher education institutions and public authorities. Institutions cannot be autonomous unless public authorities allow them to be so, but legal provision alone can guarantee neither the pursuit of knowledge nor democracy, since both depend upon open democratic values, attitudes and behaviours. Any limitations on institutional autonomy must be based on essential educational or legal needs (such as those reflected in accreditation requirements or non-discrimination laws), not on political grounds.
7. Participants recognize that while academic freedom and institutional autonomy are often considered together, one does not necessarily guarantee the other. A culture that values and promotes academic freedom should be encouraged across higher education institutions regardless of their level of institutional autonomy.
8. Significant violations of academic freedom and institutional autonomy threaten democracy. Sadly, their frequency is on the rise. Public authorities and the academic community alike must be vigilant in addressing and challenging such violations, and the responsibility for doing so does not stop at institutional or national borders. An attack on the freedom of one member of the academic community or the autonomy of one institution is an attack on the fundamental values of our democracies, regardless of where it takes place.
9. Academic freedom and institutional autonomy are also threatened when financial support from individuals, private corporations, or institutional donors predominantly determines the focus of research and teaching and diminishes the public and democratic purposes of higher education. In general, public funding is fundamental, but financial support from multiple sources and financing not narrowly earmarked can strengthen academic

freedom and institutional autonomy without diminishing the crucial societal role of higher education.

10. Administrative regulations, public and private indifference, considerations of immediate return on investment, a limited view of utility, and seeing higher education only through the lens of a narrow economic agenda also threaten academic freedom and institutional autonomy. Financial regulations and arrangements should be used to further rather than to limit institutional autonomy. More broadly, academic freedom and institutional autonomy are threatened by the absence of a vision that connects the purposes of higher education to democratic purpose.

The participants in the Global Forum therefore call on

Members of the academic community and their organizations

- ▶ to orient their research, learning, and teaching toward developing knowledge and understanding based on facts and science and interpreting these in a spirit of open-mindedness and respect for differences of views, backgrounds, and traditions;
- ▶ to provide broader society with factually based knowledge and to base their own participation in public debate on the same standards of truthfulness, open-mindedness and respect that should be at the base of their academic work;
- ▶ to refrain from any actions that could contribute to – or legitimize – the spread of false or misleading information, including spurious claims of “fake news” and “alternative facts”, or wilful distortion of the results of their own research or that of others.

Higher education institutions and their leaders

- ▶ to raise awareness among members of the academic community of the importance of academic freedom and institutional autonomy as well as the crucial role of higher education to democracy;
- ▶ to commit to maintaining, developing, and sustaining the public purpose and social responsibility of higher education;
- ▶ to explore the role and meaning of academic freedom and institutional autonomy within their respective institutions and systems, and the steps needed to protect these in an increasingly polarized and divided public sphere;
- ▶ to commit to – or maintain their commitment to, as the case may be – the *Magna Charta Universitatum*.

Higher education leaders and their organizations as well as public authorities at all levels

- ▶ to create and maintain the conditions for the academic community to enjoy freedom of research, learning, and teaching as well as the freedom to engage

in public debate based on their academic work;

- ▶ to create and maintain an atmosphere of vigorous and respectful debate within their institutions and higher education systems;
- ▶ to ensure faculty, staff and students the freedom to teach, learn and research without the fear of disciplinary action, dismissal or any other form of retribution;
- ▶ to give due regard to academic freedom and institutional autonomy in setting higher education priorities, developing policies, and assessing funding options;
- ▶ to provide sufficiently secure employment conditions for faculty/academic staff to exercise academic freedom.

Public authorities

- ▶ to set the framework for academic freedom and institutional autonomy and continuously monitor the implementation of those fundamental rights, while encouraging the adoption of sustainable long-term strategies for higher education;
- ▶ to take due account of the principles of academic freedom and institutional autonomy in developing regulations and policies in other areas of public responsibility;
- ▶ to balance the need for general rules and regulations ensuring the protection of individuals and guaranteeing sound public administration with respect for the principles of academic freedom and institutional autonomy;
- ▶ to provide strong public funding as a basic requirement for autonomy and academic freedom.

The Council of Europe, the Organization of American States, and other international institutions and organizations

- ▶ to make academic freedom and institutional autonomy key elements of their work to further democracy, human rights, and the rule of law, through normative standards as well as policy;
- ▶ to address violations of academic freedom and institutional autonomy within their member States at a political level as well as through their Education programmes and projects.

The Ministers of the European Higher Education Area, who will meet in Rome in June 2020

- ▶ to recommit to upholding academic freedom and institutional autonomy as part of the foundation on which the European Higher Education Area is built;
- ▶ to include the gathering of information on the respect for academic freedom and institutional autonomy in the Bologna Process Implementation Reports and to provide and facilitate the gathering of such information within their own countries and systems;
- ▶ to address violations of academic freedom and institutional autonomy at political level within the European Higher Education Area, in view of their

collective political responsibility for the EHEA.

The Council of Europe, the International Consortium for Higher Education, Civic Responsibility and Democracy, the Organization of American States, and other partners in our co-operation on the democratic mission of higher education

- ▶ to continue their work to strengthen the role of higher education in developing, maintaining, and sustaining democratic societies;
- ▶ to continue to highlight the importance of academic freedom and institutional autonomy in furthering higher education's democratic mission as well as to develop policy proposals and engage in public advocacy to more fully achieve that mission.

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Stefania Giannini was appointed UNESCO Assistant Director-General for Education in May 2018, becoming the top UN official in the field. In this position, she provides strategic vision and leadership for UNESCO in co-ordinating and monitoring the implementation of the Education 2030 Agenda, encapsulated in Sustainable Development Goal 4.

With an academic background in the Humanities, Ms Giannini has served as Rector of the University for Foreigners of Perugia (2004-12), being one of the first and

youngest women to hold this position in Italy. As Senator of the Republic of Italy (2013-18) and Minister of Education, Universities and Research (2014-16), she developed and implemented a structural reform of the Italian education system, centred on social inclusion and cultural awareness. She has also been closely involved in an advisory capacity with the European Commissioner for Research and Innovation.

Rita A. Hodges

Rita Axelroth Hodges is Assistant Director of the Netter Center for Community Partnerships at the University of Pennsylvania, USA. She has co-authored two books: *The Road Half Traveled: University Engagement at a Crossroads* (2012, with Steve Dubb); and *Knowledge for Social Change: Bacon, Dewey and the Revolutionary Transformation of Research Universities in the Twenty-First Century* (2017, with Lee Benson, Ira Harkavy, John Puckett, Matthew Hartley, Francis E. Johnston and Joann Weeks). Hodges is currently pursuing a Doctor of Education (Ed.D.) degree in higher education management at Penn's Graduate School of Education.

Takao Kamibeppu

Takao Kamibeppu is a professor at Fukuyama City University in Hiroshima, Japan. His research interests include the reform and internationalisation of higher education in Asia, history and politics of international education policy making, and international and domestic people mobility. Previously, he worked at the Japanese Ministry of Education, Culture, Sports, Science and Technology (MEXT) in Tokyo and UNESCO in Bangkok. He also served as a consultant for UNESCO, ASEAN, East Asia Summit, MEXT and other organisations. He received an MA (intercultural management) from the School for International Training and a PhD (education policy) from the University of Maryland, College Park. His recent publications include "Evolving Transnational Higher Education: International Joint Universities and International Branch Campuses in Vietnam and South Korea," and "Chapter 10: Global Influences on the Internationalization of Higher Education in Japan: The Role of the Bologna Process and Other European Initiatives Asia," in *The Next Higher Education Superpower?*.

Terence Karran

Terence Karran is Professor of Higher Education Policy and Senior Academic in the School of Education at the University of Lincoln in the United Kingdom. He holds a first-class degree from Aberystwyth University and a Doctorate from the University of Manchester. He is also a Docent Professor in Education Technology, in the Faculty of Education at Oulu University in Finland. From 2005 to 2007 he was Visiting Professor of Educational Technology at the Autonomous University of Guadalajara in Mexico, where he undertook work with the World Bank Institute's Global Development Learning Network for Latin America and the Caribbean. His previous research publications focused on e-learning and the European Credit Transfer System. His current specialism is academic freedom in higher education, focusing on the *de jure* and *de facto* rights associated with academic freedom in the United Kingdom and in the EU states, and also in Latin America. In connection with his work on academic freedom, he recently undertook a nationwide survey on academic freedom for the University and College Union, the largest professional association in the United Kingdom, representing higher education academic personnel.

Peter Maassen

Peter Maassen is professor of higher education and science policy at the University of Oslo (UiO), Norway, where he is, among other things, responsible for the MPhil programme in higher education studies. In addition, he is extraordinary professor at Stellenbosch University and fellow at the Steinhardt Institute for Higher Education Policy, New York University. His main current research interests are in the area of the governance of higher education and science. Before moving to Norway in 2000, he was acting director of the Center for Higher Education Policy Studies (CHEPS), University of Twente. He has been a member of many national and international expert panels in higher education and of the Executive Board of University College Oslo (now Oslo Metropolitan University). He is the editor of the academic book series *Higher Education Dynamics* (Springer) and has produced over 250 international articles, books and reports.

Silvia Marchionne

Silvia Marchionne holds a postgraduate master's degree in international cooperation and development, with a focus on the Middle East and North Africa region, a master's degree in Arabic language and Islamic studies at the Orientale University of Naples, Italy, and a bachelor's degree in languages and intercultural communication. As a member of the UNIMED team since 2013, she works in the International Projects and Networking Team as Project Manager. She gained experience in research and analysis for Euro-Mediterranean and international projects, in proposal writing and in projects management (with a particular focus on governance of higher education and employability issues in the MENA region). She is also in charge of networking activities with UNIMED university members. Furthermore, she acts as external consultant for the World Bank programme "University Governance and Quality Assurance of Higher Education in the MENA region", focusing on Algeria and Tunisia. She speaks Arabic, English and French fluently.

Liviu Matei

Liviu Matei is the Provost of Central European University (CEU), in Budapest, Hungary, a Professor of Higher Education Policy at the CEU's School of Public Policy and Director of the Yehuda Elkana Centre for Higher Education. He has taught at universities in Romania, Hungary and the US, has consulted extensively in the area of higher education policy and has conducted applied policy research projects for the World Bank, UNESCO, OSCE, the Council of Europe, the European Commission, the European University Association, the Nordic Council of Ministers and other intergovernmental and non-governmental international organisations, national authorities and universities from Europe and Asia. He is a member of the Board of Trustees of the American University of Central Asia and serves on the editorial boards of the *Internationalisation of Higher Education Journal* and the *European Journal of Higher Education*.

Sijbolt Noorda

Sijbolt Noorda is currently president of Magna Charta Observatory, Bologna, Italy. He is a former president of the Dutch Association of Research Universities, president emeritus of Universiteit van Amsterdam and a former board member of the European University Association. His main present functions and positions are:

- ▶ President of the Magna Charta Observatory;
- ▶ Board Member and Vice-Chair of the International Baccalaureate;
- ▶ Member of the International Advisory Board of Universität Tübingen, of Amsterdam University College, of the Berlin University Alliance and of ITMO University, St Petersburg;
- ▶ President of the Supervisory Board at Codarts, University of the Arts, Rotterdam;
- ▶ President of the Board at Muziekgebouw aan het IJ, Amsterdam;
- ▶ President of the Board at *Groene Amsterdammer* (Dutch independent national weekly magazine);
- ▶ Editor-in-chief at Th&ma (*Journal for Higher Education and Management* in Flanders and The Netherlands).

Noorda received his formal education in the Netherlands (Groningen, Amsterdam, Utrecht) and USA (New York City). He writes and lectures on teaching and learning in higher education; ideals and practices of internationalization; open science; and core values and governance issues in higher education institutions. He regularly reviews and gives advice to individual universities and national systems in the European Higher Education Area.

Jim Nyland

Professor Jim Nyland took up the role of Associate Vice-Chancellor at the Australian Catholic University (ACU), Queensland, Australia, in October 2011. Previously, he held academic appointments at the University of Queensland, where he was the Director of Corporate Education and Director of UQ Business School Downtown. Prior to this he was Manager and Principal Advisor in the Vice-Chancellor's Office for Engagement at Griffith University and held managerial positions in a number of universities in the United Kingdom. He holds a Doctorate in Education and has published research covering curriculum change, the nature of learning and the impact of modernity on educational opportunity. Professor Nyland's work has been international in scope and he has developed programmes in the United Kingdom and Australia as well as keynote academic papers in Ireland and South Africa. He is particularly interested in extending our knowledge and capacities in "new learning", both in work and professional settings and in communities that are in transition and facing challenges. He is President of Engagement Australia, Editor of the new Australian journal *Transform: Journal of Engaged Scholarship* and represents Australia on the International Consortium for Higher Education, Civic Responsibility and Democracy.

Marie-Anne Persoons

Marie-Anne Persoons is Advisor for International Policy at the Department of Education and Training of the Flemish Community of Belgium.

Having trained as an Orientalist in Belgium and Taiwan, her first professional experience was connected to teaching and research, at the Catholic University of Leuven and the Antwerp Royal Academy of Fine Arts, as well as the Antwerp Institute of Art History, with which she still remains affiliated. In 1996 she joined the Flemish Department of Education and Training and has been working on

international education policy ever since, initially mostly in connection with the EU Education Committee and the Bologna Follow-Up Group, chairing both bodies in 2001. From 2007 to 2009 she was general co-ordinator of the Benelux Bologna Secretariat, before joining the European Commission as national expert (2009-11). Since 2012 she has co-ordinated her department's multilateral and bilateral dossiers and participates in several international educational forums, such as the Council of Europe's Steering Committee of Education Policy and Practice and the SDG Education 2030 Steering Committee. Since 2018 she has chaired the OECD's Education Policy Committee.

Her chapter in this book combines her professional experience as a civil servant and as a teacher and researcher in Asian languages, (art) history and philosophy of art.

Marcello Scalisi

Marcello Scalisi has been the Director of UNIMED – Mediterranean Universities Union – since 2008. He holds a degree in historical sciences and in international co-operation from the Faculty of Literature, Philosophy and Languages of the University of Roma Tre, Rome. He gained extensive experience in Sicily in the sustainable tourism sector, managing and monitoring EU projects for local tourism development and providing vocational training for dozens of companies and thousands of workers. He started working at UNIMED in 1998 as project manager and moved gradually to the co-ordination of UNIMED's European, international and national initiatives and projects. Since Marcello Scalisi became Director of UNIMED, there has been a significant increase in the number of universities affiliated to the network, of funded projects and of employees and collaborators. Moreover, UNIMED is nowadays a permanent stakeholder of the European Commission.

Jens Vraa-Jensen

Jens Vraa-Jensen is International Advisor at Dansk Magisterforening (DM) in Denmark, where he is working for the university teachers' section. He was Chair of the ETUCE's Higher Education and Research Standing Committee (HERSC) between 2007 and 2017 and is now a member. He has represented EI/ETUCE in Bologna Follow-Up Group and several of its working groups. He is the Education International observer on the Council of Europe's Steering Committee on Education Policy and Practice.

Joann Weeks

Joann Weeks is Associate Director of the Netter Center for Community Partnerships at the University of Pennsylvania, USA, focusing on its regional, national and international programmes. She directs the national adaptation of the Netter Center's university-assisted community school programme as well as its training and technical assistance activities. She is executive secretary of the International Consortium for Higher Education, Civic Responsibility and Democracy. She co-authored *Knowledge for Social Change: Bacon, Dewey, and the Revolutionary Transformation of Research Universities in the Twenty-First Century* (2017) with Lee Benson, Ira Harkavy, John Puckett, Matt Hartley, Rita A. Hodges and Francis E. Johnston.

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