Academic Freedom as an Institutional Condition

Why the Freedom of a Scholar Depends on the Governance of Her University

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Academic freedom is usually discussed as a right of the individual and guaranteed, if at all, by constitutional protection. This article argues that the operative condition is institutional: a scholar is free when her university has the autonomy, the money and the procedures that allow it to protect her. It examines four institutional conditions, the ways in which each of them has weakened, and the instruments through which a university can rebuild the capacity to defend a colleague under pressure.

Contents **Page**

1. A Right and Its Guarantor **1**
2. The First Two Conditions **2**
3. Procedure and the Disciplined Decision **2**
4. The Collegial Condition **3**
5. The Pressure That Is Not Political **3**
6. Conclusions **4**

1. A Right and Its Guarantor

Academic freedom is written into constitutions and into laws, and the writing is necessary and insufficient. A clause protects a scholar against a state that wishes to punish her, and it does not protect her against an employer that wishes to reassign her, a funder that wishes to shape her question, or a donor who wishes her to be quiet.

The guarantor of the freedom in practice is the institution, because the institution stands between the scholar and every party that would prefer her to think otherwise. A university with money of its own, with a governing body that cannot be dismissed and with a procedure that must be followed before a colleague is disciplined is a university that can absorb a pressure. A university without those properties transmits the pressure, and it transmits it as an administrative decision that appears to be about something else.

The institution absorbs the pressure or it transmits it

The argument of this article is therefore that academic freedom is an institutional capacity rather than a personal right, and that the capacity is built from four conditions that a university can examine and improve.

2. The First Two Conditions

The first condition is financial. A university that depends on a single funder, a single fee income or a single donor has a reason to avoid a conflict, and a scholar whose work creates one becomes a cost. A diversified income is not a guarantee of courage and it is the material basis of the possibility of courage.

The second is governance. A university whose leadership can be removed by a political authority has a leadership that anticipates the authority's preferences, and the anticipation is transmitted downward as a caution that nobody records. A governing body with fixed terms, a senate with a real competence and a rector selected by an academic procedure are the instruments through which an institution acquires the ability to say no to the hand that feeds it.

The two conditions are related and they are not identical. An institution with money and a vulnerable leadership will spend the money on prudence; an institution with a protected leadership and no money will spend its protection on survival.

3. Procedure and the Disciplined Decision

The third condition is procedural, and it is the one that operates when a conflict has already begun.

An institution that can discipline a scholar only through a procedure with a written charge, a hearing, a reasoned decision and an appeal is an institution in which a politically motivated action is expensive, because the action must be justified in the language of a regulation. An institution in which a dean may reassign a scholar's teaching by an email has no such cost, and the reassignment is a sanction that no one can call a sanction.

The instrument is a statute that names the grounds on which a scholar's conditions may be altered, and requires that the grounds be recorded. The statute is not a guarantee that the grounds are honest; it is a

guarantee that the institution must write them down, and a written ground can be contested.

4. The Collegial Condition

The fourth condition is the presence of colleagues with the standing and the will to defend a member of the community.

A scholar under pressure is frequently isolated: her department is small, her field is narrow, and her colleagues have their own exposure. The institution's capacity to protect her depends on a body that can act collectively, and the body is usually the senate or a committee of professors that has the authority to speak for the academic community.

Where such a body has been weakened, the individual is exposed. The weakening has been gradual and administrative: committees that were once deliberative have become consultative, and a consultative body cannot defend anyone, because its role is to advise the person who decides.

Condition	Instrument	Failure mode
Finance	Diversified income	Prudence
Governance	Fixed terms, academic selection	Anticipation
Procedure	Written grounds, appeal	Quiet sanction
Collegiality	A body with authority	Isolation

Table 1 Four conditions and the instrument of each

5. The Pressure That Is Not Political

The threats to academic freedom that institutions face most often are not the dramatic ones, and an institution that prepares only for the dramatic ones is unprepared for the ordinary.

A donor who funds a chair and expects its holder to support a policy, a company that funds a laboratory and reviews its publications, a ministry that requires a research agenda aligned with a national strategy, an editor who withdraws an article under legal threat: each of these is a pressure on the conditions under which a scholar works, and each is managed by an institution rather than by a constitution.

The instrument is a register of external relationships with the conditions attached to them, reviewed by a committee that includes academic members. A university that does not know what it has promised its funders cannot protect the colleague whose work contradicts a promise.

6. Conclusions

Academic freedom is an institutional capacity, and the capacity has four conditions: money that is not singular, governance that is not removable, procedure that must be written, and colleagues who can speak together.

Three conclusions follow. An institution should audit its own conditions rather than assume its constitutional protection, since the protection operates only where the institution can absorb a pressure. External relationships should be registered with their conditions, because a promise made by an office is a constraint on a scholar in a laboratory. And the collegial body should be strengthened rather than consulted, since a body that only advises cannot defend the person who needs it.

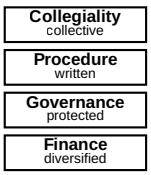

Figure 1 Four conditions of freedom

References

[1] Dvořák, M., & Haddad, L. (2021). Institutional conditions of academic freedom. Brno: Masaryk University.

[2] Berdahl, R. (1990). Academic freedom, autonomy and accountability in British universities. Studies in Higher Education, 15(2), 169–180.

[3] Karran, T. (2007). Academic freedom in Europe: a preliminary comparative analysis. Higher Education Policy, 20(3), 289–313.

[4] European University Association (2021). Academic freedom and institutional autonomy. Brussels.

[5] Altbach, P. (2001). Academic freedom: international realities and challenges. Higher Education, 41(1), 205–219.

Biography:

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