

Egil Kallerud

# Akademisk frihet: en oversikt over spørsmål drøftet i internasjonal litteratur



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## Forord

Denne rapporten er utarbeidet på oppdrag av Kunnskapsdepartementet som et underlag fra arbeidet i komiteen som departementet oppnevnte i oktober 2005 for å få ”utredet problemstillinger knyttet til behovet og mulighetene for en lovfesting av den akademiske friheten for den enkelte vitenskapelig ansatte”.

NIFU STEP ble bedt om å utarbeide en rapport på grunnlag av et sentralt utvalg av internasjonale policydokumenter og internasjonal faglitteratur om akademisk frihet. Rapporten skulle gi en oversikt over hoveddimensjoner, allmenne/ utstrakte oppfatninger og hovedposisjoner i sentrale spørsmål knyttet til begrepet akademisk frihet, slik disse kommer til uttrykk i den utvalgte litteraturen.

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# 1 Innledning

## 1.1 Om oppdraget

Stortinget ba i Innst. O. nr 48 (2004-2005) om lov om universiteter og høyskoler Kunnskapsdepartementet om å utrede utredet problemstillinger knyttet til behovet og mulighetene for en lovfesting av den akademiske friheten for den enkelte vitenskapelig ansatte. Departementet oppnevnte 14. oktober 2005 et utvalg for å forestå dette utredningsarbeidet. Som underlag for sitt arbeid, ba utvalget NIFU STEP om å utarbeide en rapport som på grunnlag av et sentralt utvalg av internasjonale policydokumenter og internasjonal faglitteratur om akademisk frihet skulle gi en oversikt over hoveddimensjoner, allmenne/ utstrakte oppfatninger og hovedposisjoner i sentrale spørsmål knyttet til begrepet akademisk frihet, slik disse kommer til uttrykk i den utvalgte litteraturen.

## 1.2 Rammer og avgrensninger

Litteraturgjennomgangen omhandler ”sentral internasjonal litteratur” om ”*individuell akademisk frihet*”. Rapporten dekker ikke litteratur om institusjonell autonomi, i betydningen: universiteters og andre høyere utdanningsinstitusjoners selvstyre. ”Akademisk frihet/autonomi” dekker begge aspekter, ofte omtalt to sider av samme sak, men det skjelves ofte uttrykkelig mellom de to i det meste av litteraturen. Rapporten omhandler heller ikke norsk litteratur om emnet.

Gjennomgangen skal dekke sentrale bidrag i faglitteraturen og sentrale policydokumenter. Skillet mellom fag og policy er imidlertid ikke svært klart i denne litteraturen. Svært mange faglige diskusjoner har ofte en mer og mindre eksplisitt policyagenda, og benytter ofte en polemisk og retorisk form. I mange tilfeller kan bidrag som er skrevet i en faglig genre, likevel være så polemisk vinklet at den analytiske verdien forringes. John Searle’s karakteristikk av litteraturen har trolig ikke mistet vesentlig av sin gyldighet på de 30 år som er gått siden den ble skrevet: Litteraturen ”tends to be historical and polemical” og diskusjoner om emnet ”are often fogged by noble sentiments and high rhetoric. It is difficult for academics to express themselves about academic freedom in the abstract without striving for eloquence and the articulation of commencement-day emotions” (Searle, 1972: 169). En vurdering av bidrags analytiske verdi ligger i betydelig grad til grunn for utvalget.

Den omtalte litteraturen har en tydelig (anglo-)amerikansk slagside. Det gjenspeiler ikke bare skjevheter i treff på Internet, som har vært et viktig arbeidsinstrument, men også i den formelle litteraturen (bøker, artikler). Vi har søkt etter tysk- og franskspråklige bidrag, men fant få bidrag som samtidig er noenlunde lett tilgjengelig (Internett, bøker og tidsskrifter tilgjengelig gjennom norske biblioteker). Slagsiden er noe oppveid ved hyppige henvisninger til den tyske tradisjon som begrepet springer ut av.

Policy-dokumenter som er inkludert omfatter sentrale formelle erklæringer og lignende fra organisasjoner som UNESCO, EU, AAUP og lignende m.v., ikke polemiske innlegg av enkeltaktører og politiske rapporter om enkeltsaker. En stor del av den policyrettede litteraturen gjelder overgrep mot akademisk frihet under repressive politiske regimer (særlig) i den tredje verden, men også – for de siste årenes del – et antall ”post-9/11-saker” i USA, der restriksjoner og inngrep overfor akademikere, særlig med utenlandsk nasjonalitet, har vært begrunnet med nasjonale sikkerhetshensyn. Denne litteraturen er knapt berørt.

Litteraturen om akademisk forskning er svært omfattende og uoversiktlig, og den er ikke minst heterogen, med hensyn til så vel genre som perspektiv og standpunkter. Uklarhet og uenighet preger bildet (Altbach, 2001). Det er ugjørlig å gi et dekkende og strukturert totalbilde på et fåtall sider. Bibliografien og appendikset omfatter litteratur og dokumentasjon som går ut over det som er direkte omtalt i selve teksten. Altbach, 2001 og Tight, 1987 kan fremheves som særlig nyttige oversiktsartikler.



## 2 Hva er akademisk frihet?

### 2.1 Innledning

*Mange betydninger og bruksmåter*

En gjennomgående metakommentar i litteraturen om begrepet akademisk forskning, er at det på den ene siden synes å være betydelig enighet om en kjernebetydning, mens det på den annen side er svært store variasjoner i måten begrepet tolkes og anvendes på, ofte med motstridende praktiske implikasjoner, slik følgende oppsummerende kommentar fra én av antologiene om emnet ser det:

*There is little consensus regarding the meaning of academic freedom although there is agreement that it is something worth protecting. The concept has been invoked in support of many contrary causes and positions. It, for example, was used to justify student activism and to repress it, to defend radical faculty and to defend their suppression, to support inquiry into admissions or promotion of tenure positions or to deny such inquiry. (sitert i Tight, s. 114).*

Det er et gjennomgangstema i metakommentarer til begrepet om og historien til begrepet akademisk frihet at det har hatt skiftende betydningsinnhold, og brukes forskjellig fra kontekst til kontekst. Det er ikke enkelt å trekke klare normative slutninger i konkrete situasjoner fra det sammensatte og uoversiktlige bildet som en gjennomgang av herværende type etterlater. En metakommentar i den retningen er denne:

*In the repeated invocation of the name and authority of academic freedom, one detects an expository motive, a desire by persons in moral doubt to be guided by a presumably related and potentially illuminating body of experience. (Metzger, 1978: 93)*

Men:

*What in the canon has the capacity to be so illuminating [in issues concerning the limits of scientific inquiry]? To note that it draws on the prestige of science, that it endorses the freedom of inquiry, that it counts academic scientists among its intended beneficiaries is not to demonstrate that it casts any direct light. More would be said about its candlepower if it could be shown that it clarifies the ethics of science, or that it has produced an informative record of cases touching on free inquiry, or that it accurately identifies the controlling forces that contemporary scientists have most to fear. But on these matter [...], the opposite is more nearly true, and for fundamental reasons. At the end, we come to a discouraging conclusion: the groping scientific conscience may take diffuse enlightenment from this fund of experience, but if it looks for a beacon, it will look in vain. (ibid: 102).*

*Om forholdet mellom institusjonell autonomi og individuell frihet*

Institusjonell autonomi (universiteters selvstyre) og individuell akademisk frihet fremheves allment som to sider av samme sak og som gjensidig avhengige. Men når spørsmålet drøftes mer analytisk, blir sammenhengen mellom de to aspektene mindre entydig. Én formulering som vektlegger gjensidigheten er at: "Institutional autonomy is a necessary, but not sufficient condition for academic freedom" (Tight, s.123). Det hevdes at "while it is possible to have academic freedom without institutional autonomy, and vice-versa, the

two concepts tend to be mutually supporting and it is desirable that both should be encouraged if each is to flourish” (Tight, s. 123). Samtidig understrekes det også at institusjonell autonomi ikke er noen *garanti* for akademisk frihet. Tvert i mot kan (økt) institusjonelt autonomi, som et tilsynelatende paradoks, være kilde til økt press på individuell akademiske frihet. Spenningsene mellom de to kan under gitte betingelser bli viktigere enn det gjensidige avhengighetsforholdet: ”Academic institutions, whether autonomous or not, are quite capable of being oppressive to their individual members (or of permitting oppression by others to take place), and the great majority of cases in which academic freedom is seen as being threatened are probably of this nature.” (Tight, 1988: 123). Ja, utvidet institusjonell autonomi kan direkte føre til redusert beskyttelse av enkeltindivider: ”Indeed, if institutions are truly autonomous it may be much more difficult for the threatened individual to to gain effective redress against their judgements” (ibid). Et sentralt aspekt ved individuell akademisk frihet er beskyttelsen mot egen ledelse og kolleger, like så mye som mot direkte press og sanksjoner utenfra.

Samtidig kan det også sies at individuell frihet er enda mer intimt koplet til en *annen* form for ”institusjonell” autonomi, og med noen andre implikasjoner m.h.t. behovet for beskyttelse, nemlig det som springer ut av det tredje elementet i det klassiske, Humboldtske begrep om akademisk frihet, ”die Freiheit der Wissenschaft” (Metzger, 1978: 94). *Vitenskapens* selvstendighet og uavhengighet begrunner universitetenes autonomi, men de to formene for autonomi har ikke sammenfallende begrunnelser og innhold, og i forholdet mellom *vitenskapens* autonomi og individuell akademisk frihet ligger det også en understrekning av *legitime* begrensninger, rammer og sanksjoner i forhold til (mis)bruk av akademisk frihet. Det blir et gjennomgående tema i det følgende.

## 2.2 Røtter og hovedtradisjoner

Det er ikke her aktuelt å rekonstruere den komplekse forhistorien til de moderne begreper om akademisk frihet. Noen aspekter kan likevel synes viktig, for så vidt referanser til den historiske opprinnelsen er en viktig del av den betydning og bruk begrepet har den dag i dag. Det gjelder naturligvis i første rekke referansene til det Humboldtske ide-grunnlag for 1800-tallets nye universiteter. Etter det er akademisk frihet blitt knyttet til universitetene, men om en skal søke etter tidligere institusjonelle røtter, er det i mindre grad i de tidligere universitetene enn i opplysningstidens akademier; det var innen de nye akademiene som vokste fram i Europa på 1600-tallet at den nye vitenskapen fikk et institusjonelt frirom, der vitenskapelig virksomhet kunne – under visse forutsetninger - utøves fritt, uten risiko for innblanding eller sanksjoner fra konge eller kirke. En indikasjon på de begrensninger som også lå i den ”kontrakt” som dette frirommet hvilte på, ligger i en ofte sitert passasje fra (et utkast til) statuttene for Royal Society fra 1663:

*”The Business and Design of the Royal Society is: To improve the knowledge og naturall things, and all useful Arts, Manufactures, Mechanick practices, Engynes and Inventions by Experiments – (not meddling with Divinity, Metaphysics, Moralls, Rhetorick, or Logick)” (sitert i Böhme et al, 1977: 140)*

Den særlige statusen til akademiene var altså, i hvert fall i dette tilfellet, fundert på en kombinasjon av løfter om nytte, og forpliktelse til å unnlate å ta opp kontroversielle spørsmål.

Mye av de samme begrensningene lå i det Humboldtske begrep om akademisk frihet, som ikke ga tyske universitetsprofessorer mer omfattende allmenne ytringsfriheter enn andre embetsmenn og borgere, men først og fremst en særstatus og et unntaksmessig frirom for å kunne utøve sine spesielle embetsoppgaver under betingelser som var oppfattet som vesentlig for kvaliteten av disse spesielle embetsoppgavene. Det er i det amerikanske begrep om akademisk frihet at akademisk frihet og allmenn ytringsfrihet i større grad blir to sider av samme sak. Det tyske og amerikanske begreper om akademisk frihet representerer derfor to ulike tradisjoner, forankret i universitetssystemer som på vesentlige punkter er svært forskjellig.

#### Tysk vs amerikansk tradisjon.

Det tyske begrep om akademisk frihet er knyttet til begrepene *Lehrfreiheit* - professorens adgang til fri utøvelse av sine embetsplikter – undervisning og forskning, – uten å be om tillatelse og uten fare for represalier fra overordnet statlig myndighet. Det andre hovedelementet var *Lernfreiheit*, studenters frihet til å velge hvilken undervisning de vil følge, på tvers av universiteter; studentenes læring var ikke universitetets ansvar, de ble ble ansett som ”voksne” med full frihet og evne til å ta ansvar for egen læring.

Den tyske forståelsen av akademisk frihet sprang dermed ut av problemet med å utforme en spesiell plass og særordning for universiteter og professorer i en autoritær, byråkratisk stat: ”Science had to be accommodated in an inimical environment, and special safeguard had to be devised for securing its freedom” (Metzger, 1978: 119).

Den amerikanske versjon av akademisk frihet ble derimot utformet som svar på særskilte spenninger i deres system med lekmannsstyrte universiteter: ”[academic freedom in the United States] is the scientist’s guarantee of freedom from interference with the direction of his work and the expression of his views by an administration representing a lay board and from interferences originating from outside the university and mediated through the lay board and the administration of the institution” (Ben-David, 1971: 157). Dette ble begrunnet i en lojalitet som er overordnet den universitetsansatte har til sine umiddelbare arbeidsgivere, dvs. lojaliteten til offentlige instanser og allmennheten: ”public agency in need of expert guidance, and the general society in need of greater knowledge” (ibid).

Men det som ligger til grunn for så vel Lern- som Lehrfreiheit er en tredje frihet, Freiheit der Wissenschaft, som er vitenskapens og forskningens frihet til å forfølge sitt eneste eller sitt primære mål, ”the pursuit of truth”. I denne komponenten av begrepet av akademisk frihet ligger det en understreking av at individuell akademisk frihet hviler på et *institusjonelt* fundament, men i en annen betydning enn for de enkelte akademiske institusjonenes selvstyre. Den individuelle akademiske frihet er ikke bundet av lojalitet til

den enkelte institusjon, men den overordnede lojalitet er til vitenskapen, og innebærer at individuell akademisk frihet hviler på en normativ forpliktelse på de kollektive normer som gjelder for forskning og akademisk undervisning. Akademiske sanksjoner er både mulige og legitime i tilfeller av illojal atferd i forhold til de overordnede, kollektive normer som gjelder vitenskapsinstitusjonen og forskersamfunnet.

## 2.3 Noen definisjoner

Vi gjengir her et knippe av formelle definisjoner av akademisk frihet som viser til sentrale betydningselementer, men også den varierende vekt som legges på de ulike elementene.

*Academic freedom may be defined as the freedom to conduct research, teach, speak, and publish, subject to the norms and standards of scholarly inquiry, without interference or penalty, wherever the search for truth and understanding may lead. (Statement on Academic Freedom, Global Colloquium of University Presidents, 2005).*

En beslektet minimumsdefinisjon er denne:

*Academic freedom exists where academic persons (i.e. persons who are member of academic institutions) are free to perform their academic obligations (i.e., the actions to which they are committed to perform by virtue of their being members of academic bodies). (Shils, 1991: 2)*

I en annen definisjon er professorer den gruppe av ”academic persons” som akademisk frihet først og fremst gjelder for:

*professors should have the right to teach, conduct research and publish their work without interference, and that students should have the corresponding right to study and learn (Searle, 1972: 170).*

Følgende definisjon omfatter både institusjonell autonomi og individuell frihet, og fremhever at beskyttelsen gjelder urettmessig, ikke enhver form for, innblanding:

*Academic freedom is the freedom of teachers, students, and academic institutions to pursue knowledge wherever it may lead, without undue or unreasonable interference. At the minimum, academic freedom involves the freedom to engage in the entire range of activities involved in the production of knowledge, including choosing a research focus, determining what to teach in the classroom, presenting research findings to colleagues, and publishing research findings. (Wikipedia).*

Følgende definisjon karakteriseres ved sin sterke vekt på at friheten bygger på ”accountability”-aspektet: at det å innrømme og etterleve akademisk frihet legger til grunn og derfor forutsetter at dette er en effektiv måte å befordre utvikling og anvendelse av vitenskapelig og samfunnsmessig verdifull kunnskap i videste betydning:

*Academic freedom refers to the freedom of individual academics to study, teach, research and publish without being subject to or causing undue interference. Academic freedom is granted in the belief that it enhances the pursuit and application of worthwhile knowledge, and as such is supported by society through the funding of academics and their institutions. Academic freedom embodies an acceptance by academics of the need to encourage openness and flexibility in academic work, and of their accountability to each other and to society in general (Tight, 1987: 132).*

Følgende definisjon er kanskje mindre representativ og allmenngyldig, med sin ”amerikanske” vekt på sammenhengen mellom akademisk frihet og allmenne

borgerrettigheter, og på beskyttelse i forhold til egen institusjon, bl.a. i form av uoppsigelighet (tenure):

*”the right of scholars to pursue research, to teach, and to publish without control or restraint from the institutions that employ them. It is a civil right that is enjoyed, at least in statute, by all citizens of democratic countries. In the case of scholars, whose occupation is directly involved with that right, the concept of academic freedom generally includes the property right of tenure of office. Essential to the acceptance of academic freedom is the notion that truth is best discovered through the open investigation of data. A less clearly developed corollary of academic freedom is the obligation of all those who enjoy it to pursue the line of open and thorough inquiry regardless of personal considerations” (The Colombia Encyclopedia, Sixth Edition).*

Følgende definisjon indikerer at ulike definisjoner reflekterer ”sin tid”, her studenturoen ved amerikanske universiteter, da former for studentaksjonisme forstyrret normal akademisk virksomhet:

*The qualified teacher, whose qualifications may be inferred from his acquisition of tenure, has the right honestly to reach, and hold, and proclaim any conclusion in the field of his competence. In other words, academic freedom carries with it the right to heresy as well as the right to restate and defend the traditional views. This takes in considerable ground. If a teacher in honest pursuit of an inquiry or argument comes to a conclusion that appears fascist or communist or racist or what-not in the eyes of others, once he has been certified as professionally competent in the eyes of his peers, then those who believe in academic freedom must defend his right to be wrong--if they consider him wrong--whatever their orthodoxy may be. (Hook, 1970: 36).*

Følgende definisjon spesifiserer uvanlig konkret hvorfra truslene kan komme:

*Academic freedom is a situation in which individual academics may act without consequences that can do damage to their status, their tenure as members of academic institutions, or their civil condition. Academic freedom is a situation in which academics may choose what they will assert in their teaching, in their choice of subjects for research and in their publications. Academic freedom is a situation in which the individual academic chooses a particular path or position of intellectual action. Academic freedom arises from a situation in which authority – be it the consensus of colleagues in the same department, the opinion of the head of the department, the dean, the president, the board of trustees, or the judgement of any authority outside the university, be it a civil servant, or a publicist or a military man – cannot prevent the academic from following the academic path that his intellectual interest and capacity proposes (Shils, 1991: 1-2).*

## **2.4 Rammer, forpliktelser, begrensninger**

Akademisk frihet er ikke *absolutt*. Den er funksjonelt begrunnet, som effektivt instrument for ”the pursuit of truth”. Det er en form for frihet som er spesielt utformet som ramme for effektivt å skape sann kunnskap, og bare det:

*Academic freedom is not an unlimited freedom of teachers to do anything they want in their classroom or in their relations with their students or to work on just anything in their research by whatever method they wish and to assert whatever they wish in their publications. There has to, above all, concern to teach the truth, to attain the truth, and to publish the truth“ (Shils, 1997: 156).*

Friheten er også underlagt begrensninger for så vidt den gjelder innenfor rammer av ulik karakter (normative, ressursmessige, juridiske) og er en *betinget* frihet, betinget av at tilliten til at den brukes ansvarlig, på måter som innebærer at de løfter og forpliktelser den er begrunnet med blir oppfylt. Mye av diskusjonen ser akademisk frihet som et privilegium som gir en bestemt gruppe i samfunnet en særstatus, og kritikken retter seg tilsvarende mot realgrunnlaget for dette privilegiet. En del av kritikken skyldes oppfatninger om at den ”kontrakt” med samfunnet som rettighetene eller privilegiene hviler på, ikke i tilstrekkelig grad blir oppfylt. Det kan skyldes brudd på vitenskapens egne normer (egennytte, fusk, manglende objektivitet) som undergraver tilliten til den selvregulering som friheten innebærer, eller at friheten ikke anses å gi resultater av den art, betydning og rekkevidde som begrunnelsen av den lover.

### En frihet innenfor rammen av akademiske normer

Akademisk frihet beskytter mot inngrep utenfra, men ikke mot sanksjoner, begrensninger og inngrep som er *legitime* i kraft av at de bygger på *peer review* i en eller annen form. Den individuelle friheten er – eller kan være – legitimt begrenset gjennom en rekke former for gatekeeper- og reguleringsfunksjoner som bygger på peer review. Retten til akademisk publisering er begrenset av tidsskriftets kvalitetsvurdering (inkludert redaksjonell policy):

*The provision of academic freedom does not provide for the right to publish the results of one's research in any particular journal, regardless of the assessments of the editor and his referees about the scientific or scholarly merit of those results (Shils, 1997: 157).*

Det samme gjelder tilgangen til forskningsressurser, også der ressursene fordeles på rent vitenskapelig kvalitetsgrunnlag.

*Academic freedom does not include the right to obtain financial support for one's research regardless of the assessment of the intellectual merits of the proposed investigations rendered by qualified referees or peers (ibid)*

Brudd på akademiske sannhets- (eller sannferdighets-) og åpenhetsnormer berettiger inngrep og sanksjoner, som i uredelighetssaker. Å hevde – som akademiker – noe som er mangelfullt dokumentert eller som strider mot det som er allment akseptert som etablert kunnskap, kan være grunnlag for akademisk korreks og inngrep, men samtidig skal også beskyttelsen mot inngrep utenfra p.g.a. kontroversielle og upopulære ytringer fra utenforstående synsvinkel (politikk, ideologi, religion) gi rom for ytringer og kunnskapssøken på tvers av vitenskapelig ortodoksi.

Individuell akademisk frihet er forankret i og opererer innenfor rammen av Freiheit der Wissenschaft, vitenskapens og forskerfelleskapets autonomi. Legitim utøvelse av akademisk frihet forutsetter tildelt status som kompetent, og rammen som akademisk frihet legitimt utøves innenfor er etablerte normer for akseptabel akademisk atferd. I denne sammenheng er saklighet en overordnet norm. Å være saklig har mye å gjøre med å ha et solid faktagrunnlag for påstander, og med det å forholde seg balansert til verdier og motstridende standpunkter. Å innta klare verdistandpunkt i forskning og undervisning kan reise spørsmål om saklighetsnormen blir ivaretatt eller ikke. Den måte et emne blir behandlet på, og påstanders form og begrunnelse blir vesentlige i vurderingen av hvor

grensen mellom akseptabel og ikke-akseptabel akademisk atferd skal trekkes. Ett forholdsvis radikalt forslag til hvor denne grensen bør trekkes er at "the main body of teaching should be concentrated on statements of fact, on empirical statements, concrete and descriptive, on unique events or on abstract and generalized event" (Shils, 1991: 5). En slik "puristisk" løsning vil for de fleste være for restriktiv, men indikerer det sentrale problem: at de akademiske saklighetsnormer som utøvelsen av akademisk frihet er forpliktet på og avgrenset av må innebære en avgrensning mellom, på den ene siden akademisk kunnskapssøken og ytringer basert på anerkjent kunnskap og/eller egen forskning, og synsing, propaganda, politisk misjonering m.v. på den andre. Men hvor grensene bør trekkes vil bl.a. kunne være avhengig av kunnskapsteoretisk posisjon (Searle, 1972; Hawkesworth, 1987). For noen vil hele studie- og kunnskapsområder med sterke, innebygde verdidimensjoner – slik som "feministiske kvinnestudier" og "marxisme" – være suspekterte eller problematiske (Searle, 1994). Andre vil mene at en så streng faktaorientering som den Shils argumenterer for, er å gå for langt. Det å være engasjert og ta stilling ("advocacy") er i følge disse en integrert del av vitenskapen og forskningsprosessen; akademiske saklighetsnormer er forenlig med, og ikke uten videre brytes, på fagfelte og faglige debatter preget av sterk verdiorientering og polarisering, som de ovennevnte.

Samtidig kan, omvendt, det krav til saklighet som må gjelde for legitim utøvelse av akademisk ytringsfrihet tolkes slik at det pålegger akademikere visse ytterligere begrensninger i bruken av allmenn ytringsfrihet. American Association of University Professors (AAUP) retningslinjer om akademisk frihet, "The 1940 Statement of Principle on Academic Freedom and Tenure", fremhever f.eks. at:

*When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.*

### Forpliktelser

Å gjøre krav på akademisk frihet, uten samtidig å erkjenne at den også er underlagt begrensninger og også medfører plikter ville gjøre doktrinen om akademisk frihet til en "completely self-serving ideology" (Metzger, 1978: 102). Blant dem som i sterk grad har understreket at akademisk frihet er betinget av at en etterlever en "academic ethic" som også innebærer forpliktelser, er Edward Shils (1997) og Donald Kennedy (1997). Kennedy fremhever at den akademiske etikk og ethos ikke bare omfatter de rettigheter som akademisk frihet gir, men også en plikt "to teach, to mentor, to serve the university, to publish, to tell the truth, to reach beyond the walls", "to change" (ibid).

### Akademisk frihet og forskningsfrihet

AAUPs retningslinjer understreker sterkt kravet til balanse i undervisning og offentlige ytringer, men forskningsfriheten er formulert uten begrensninger: "Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties". Denne forståelsen av akademisk frihet gjør den, ifølge Metzger, mangelfull som grunnlag for å regulere balansen mellom frihet, grenser og forpliktelser i forskning under moderne rammebetingelser for forskning. Det ene er at de ikke tar eksplisitt høyde for den type allmenn- og forskningsetiske begrensninger i forskningsfriheten som personvern, helse- og miljørisiko, bruk av forøksdyr etc. representerer, slik dette er blitt en selvfølge i løpet av de siste 30-40 år. For det andre har, ifølge Metzger, disse retningslinjene for lite å si om akademisk frihet under de rammebetingelser som gjelder etter at "scientific research climbed from the Edison to the Brookhaven scale of costs [...] The proponents of academic freedom hardly touch upon the complexities of the world around them when they speak of "complete and unlimited freedom of inquiry" and other such absolutist formulae" (ibid: 107).

Disse begrensningene er, fortsatt ifølge Metzger, uttrykk for en mer fundamental begrensning ved akademisk frihet-tradisjonen (kanskje særlig i USA, men det er her den er mest utviklet): den berører få sider ved forskningsfriheten, fordi begrepet først og fremst har vært en normativ ramme for å regulere det spesielle forhold mellom arbeidstaker og arbeidsgiver ved akademiske institusjoner. Det har først og fremst vært, og er fortsatt, et normativt rammeverk for å begrense institusjoners inngrep i akademisk ansattes utøvelse av akademiske funksjoner (og deres mulighet til sanksjoner p.g.a. upopulære offentlige ytringer); mens det i denne tradisjonen har vært mindre fokus på det forhold mellom "forskning og samfunn" som en mer fullstendig normativ ramme for forskningsfrihet bør ta utgangspunkt i: "scientific freedom is a different species of freedom than academic freedom" (ibid), også fordi forskningsfriheten må gjelde også andre forskningsinstitusjoner og forskergrupper enn de akademiske.

Dette indikerer også at litteraturen om akademisk frihet i relativt liten grad omhandler den type spørsmål omkring forskningsfrihet (og fri forskning) som står i fokus i den forskningspolitiske debatt om forskningsfrihet, herunder særlig retten til og/eller tilgangen til forskningsressurser for fri forskning, og hva som er legitime former for og grader av (politisk) styring av forskning når samfunnet betaler.

## **2.5 Teoretiske perspektiver**

### Kunnskapsteoretisk begrunnelse av akademisk frihet

John Searle begrunner akademisk frihet teoretisk. Hans teori om akademisk frihet omfatter en *spesiell* og en *generell* teori om akademisk frihet, der den spesielle springer ut av de klassiske begreper om Lehr- og Lernfrihet, og som er knyttet til universitetsprofessorers "right to teach, conduct research and publish their results without interference" (p. 170), og universitetsstudenters "corresponding rights to learn and study" (ibid). Den er en spesiell



teori, fordi den kun gjelder en spesiell institusjon, universitetet; de rettigheter akademisk frihet gir i hht til den spesielle teorien ”derive not from a general theory of man and society, but from a special theory of an institution and the conditions of functioning of that institution [.....] The university is an institution designed for the advancement and dissemination of knowledge” (ibid). Denne institusjonelle teorien hviler på sin side igjen på en *epistemologisk* teori – en kunnskapsteori, som omfatter ”the methodological and rationalistic assumptions behind the modern conception of science and scholarship” (s. 171). Dens kjerne er at “knowledge is most likely to be advanced through free inquiry, and that claims to knowledge can only be validated as knowledge as opposed to dogma and speculation – by being subjected to the tests of free inquiry” (ibid). De rettigheter som er knyttet til akademisk frihet er således forankret i visse institusjonelle særtrekk for universitetene, for såvidt de er knyttet til en *spesiell* institusjonell sammenheng for kunnskapsproduksjon og -spredning som i større grad enn andre samsvarer med visse antakelser om hvordan kunnskap best bør skapes, valideres og spres.

Fra den spesielle teorien om akademisk frihet og dens kunnskapsteoretiske premisser, avleder også Searle den særskilte status professoren har i denne institusjonen: ”The university is [...] an aristocracy of the trained intellect. [...] In virtue of his special competence in some area of academic study – and competence includes knowledge of existing results and mastery of the techniques of validation and investigation of some academic discipline – the professor is given special rights of investigation” (s. 171).

Mens den spesielle teorien om akademisk frihet grovt sett sikrer de rettigheter som ble avledet av de klassiske tyske begreper om Lehr- und Lernfreiheit (og Freiheit der Wissenschaft), så sikrer den ikke en del andre friheter og rettigheter som ansatte og studenter kan påberope seg som del av deres akademiske frihet. De kan ikke avledes av den spesielle teorien, men krever en *generell* teori om akademisk frihet – the General Theory of Academic Freedom – hvis ”basic principle is that professors and students have the same rights of free expression, freedom of inquiry, freedom of association and freedom of publication in their roles as professors and students that they have as citizens in a free society” (s. 175). Grunnlaget for disse utvidede rettigheter for ansatte og studenter er de samme som for alle andre borgere, men de er del av den *akademiske* friheten fordi de garanterer ytringsfrihet m.v. som går *ut over* aktiviteter som er direkte knyttet til forskning, undervisning og læring i samsvar med den spesielle teorien, men som samtidig er knyttet til universitetsinstitusjonen og identiteten som forsker/student. Ansatte og studenter skal kunne ytre seg (m.v.) fritt, innenfor som utenfor universitetet, om ethvert spørsmål – også slike som ligger *utenfor* den enkelte akademikers særskilte kompetanseområde – uten å risikere å bli utsatt for sanksjoner knyttet til rollen og rettighetene som ansatt og student. Det begrunner bl.a. at de allmenne borgerrettigheter ansatte og studenter har i samfunnet generelt, også skal kunne anvendes innenfor universitetet (for eksempel arrangement av og deltakelse i politiske møter og debatter på universitetet m.v.). Det skal også beskytte ansatte og studenter mot at universitetets ledelse eller instanser utenfor skal kunne anvende ”akademiske sanksjoner” (oppsigelse, utvisning, etc) når de gjør bruk av disse allmenne

rettighetene. Samtidig må forholdet mellom de to typer rettigheter reguleres på en slik måte at universitetets spesielle funksjoner ivaretas – ”the mode of exercise of these [general] freedoms needs to be restricted to preserve the academic and subsidiary functions of the university” (s. 175). Dette peker fram mot mange av de temaer som særlig preger amerikansk debatt om akademisk frihet, bl.a. om det å innta kontroversielle standpunkter i utøvelsen av allmenn akademisk frihet, og å fremme kontroversielle synspunkter i utøvelsen av akademiske oppgaver, for eksempel ved ”misjonerende” og ”indoktrinerende” undervisning. Akademisk frihet gir beskyttelse mot sanksjoner utenfra, men sanksjoner er både mulige og legitime innenfor kollegiale rammer, dersom akademiske oppgaver utøves på måter som bryter med de akademiske normer som er avledet av den underliggende kunnskapsteorien. Det understreker at den beskyttelse som akademisk frihet gir, forutsetter at normene for akademisk *integritet* blir ivarettatt, og – når brudd forekommer – håndhevet gjennom (akademiske) sanksjoner ”innenfra”, dvs. av legitime representanter for det kollegiale fellesskap (til forskjell fra ytre instanser, inkludert instanser ved institusjonen).

Det er i samfunn der allmenne ytrings-, organisasjons- og forsamlingsrettigheter gjelder at den akademiske frihet – og den beskyttelse den gir – omfatter begge typer rettigheter. I det tyske universitetssystemet omfattet den bare de spesielle friheter, og gjaldt kun for utøvelsen av embetet som forsker og underviser. Samtidig ser vi også hvordan ”akademisk frihet” kan brukes som et argument for at universiteter skal kunne være institusjonelle fristeder i repressive samfunn der det skal være mulig å utøve allmenne friheter som ikke gjelder i samfunnet generelt, slik det for eksempel har vært en sterk tradisjon for i latinamerikanske land (Altbach, 2001).

### Den akademiske forskningens vitenskapssosiologi

Det sosiologiske motstykket til Searles realistiske vitenskapsteori er teorier om vitenskapen *ethos*, de fleste basert på Robert Mertons klassiske bidrag. Vitenskapelig virksomhet skiller seg fra andre samfunnsaktiviteter og –institusjoner gjennom det sett av grunnleggende normer som regulerer forskeres atferd som forskere.

John Ziman oppsummerte de Mertonianske normer med akronymet CUDOS (Communism; Universalism; Disinterestedness; Originality; Scepticism). Han har også karakterisert endringene i de betingelser som forskning i økende grad skjer under som en utvikling som i økende avvikler fra den idealtypiske atferd CUDOS-normene angir, og som i økende grad er kontrære til disse klassiske, akademiske normer. De normer som styrer ”post-akademisk” forskning er summert opp i akronymet PLACE (Proprietary; Local; Authoritarian; Commissioned; Expert work) (Ziman, 1994). Mens CUDOS-normene typisk gjelder innenfor grunnforskning/akademisk forskning, gjelder PLACE i industri-forskning og offentlig anvendt forskning, men gjør seg også i økende grad gjeldende på det som var den akademiske forskningens enemerker, innenfor akademiske institusjonelle rammer. Zimans perspektiv er overveiende analytisk, deskriptivt, men han stiller også det normative spørsmål om dette er en utvikling som fører til at vitenskapen mister sin objektivitet (Ziman, 1996).

Både CUDOS og PLACE er altså i utgangspunktet deskriptive kategorier, som *empiriske* beskrivelser av hvordan forskning under hhv akademiske og post-akademiske betingelser faktisk foregår. Men CUDOS-normene er også regulative, og opprettholder sin (normative) gyldighet selv om det er påvist at de ikke er fullt ut empirisk dekkende for forskning utført under normale, akademiske betingelser (Mulkay, 1971). I den grad de reelle betingelser forskning skjer under gjør det vanskeligere å handle i et rimelig samsvar med CUDOS-normene, og i stadig større grad underlegger forskningen PLACE-normer og -mål, så framstår det som et normativt og politisk problem, og kan begrunne forskningspolitisk handling: å (*gjen*)skape de betingelser for forskning som gjør det mulig eller enklere å opptre i større samsvar med CUDOS-normene.

Men et hovedpoeng hos Ziman (2000: 69-71) er at utviklingen fra et CUDOS- til et PLACE-regime langt på vei er et uttrykk for endringer i forskningens karakter under moderne betingelser som ikke kan reverseres. Han fremhever forskningens kollektivisering, som er en direkte konsekvens av vitenskapens og forskningens enorme suksess og vekst særlig i løpet av noen få tiår. Det har lagt grunnlaget for framveksten av former for forskning som i sine krav til finansiering og organisering, ledelse og samarbeid gjør det vanskelig å anvende det sterkt individualistiske normative rammeverket for akademisk frihet. I post-akademisk, kollektivisert forskning blir betydningen av den individuelle forskers "Einsamheit und Freiheit", slik den ble understreket i Humboldts begrunnelse av "Lern- und Lehrfreiheit" som grunnlag for "Bildung durch Wissenschaft", mer og mer irrelevant.

#### Forskningspolitikk for fri forskning

Dermed beveger en seg fra et analytisk-sosiologisk ramme til en normativ-forskningspolitisk. Under dette normative perspektivet på utviklingen ligger følgelig antakelser om hva som er god eller best forskning, og om hvilke normative og faktiske betingelser som fører til best forskning m.h.t. reliabilitet, originalitet etc. Den klassiske forskningspolitiske begrunnelsen for at forskning utført under klassisk akademiske, CUDOS-regulerte, betingelser gir den beste forskningen, finner en hos Michael Polanyi (Polanyi, 1946; 1962). For Polanyi var vitenskapen en enhetlig og homogen størrelse fordi den er det spontane resultat av den økonomiske logikken som styrer vitenskapelige problemvalg. Polanyi begrunner det klassiske, liberale vitenskapsideal med en analogi med markedet. På samme måte som økonomiske aktører opptrer strategisk ut fra økonomiske grensenyttevurderinger, velger forskere problemer som «produce the highest possible result by the use of a limited stock of material and intellectual resources» (Polanyi, 1962:56). Det som i vitenskapen svarer til pengenes funksjon på markedet er vitenskapelig verdi («scientific merit»). De verdier som er nedfelt i vitenskapens profesjonelle normsystem, innebærer et imperativ om å velge oppgaver som gir maksimalt vitenskapelig utbytte, vurdert ut fra om arbeidet med oppgaven vil gi resultater som (1) er plausible, (2) har vitenskapelig kvalitet, dvs. (a) er nøyaktige, (b) har systematisk betydning, og (c) er om et emne som i seg selv er interessant, og (3) er originale. Det er mulig å sammenlikne ulike spesialiteter, felter og

disipliner og gi dem en relativ verdi i forhold til hverandre, fordi den enkelte forskers kompetanse er slik at han eller hun kan vurdere resultater og muligheter på felter som er nært beslektet med eget spesialfelt. Det skaper spillerom for migrasjon og endringer i ressursfordeling mellom felter. Fordi vitenskapens struktur har form av et nettverk av overlappende felter, vil all vitenskapelig virksomhet bygge på de samme vitenskapelige standarder. Disse legger det enhetlige grunnlag for «the Republic of Science», og det er de som bør håndheves med absolutt autoritet, i full uavhengighet fra alle andre hensyn.

Ut fra disse premissene avleder Polanyi *universitetenes* fortrinn som institusjonell ramme for forskning som er og bør være motivert av rent vitenskapelig erkjennelsesinteresse ("nysgjerrighet"): "the only justification for the pursuit of scientific research in universities lies in the fact that the universities provide an intimate communion for the formation of scientific opinion, free from corrupting intrusions and distractions" (Polanyi, 1962: 67). Han avleder også den sentrale rolle som den enkelte forskers frihet spiller innenfor rammen av denne forståelse av hva som fører til den beste forskningen. Vitenskap må være *regulert*, og dermed være underlagt en form for begrensning, men denne må samtidig være forenlig med den enkelte forskers fulle frihet. Hvordan kan disse tilsynelatende motstridende hensyn forenes? Svaret er: det er en form for makt som er *internalisert*, som kun virker gjennom den enkelte forskers suverene, vitenskapelige skjønn og samvittighet: "Sovereignty over the world of science is vested in no particular ruler or governing body, but is divided into numerous .... premisses of freedom" (Polanyi, 1946: 63).

Dette er et perspektiv som synes å ligge til grunn for det som kanskje er etterkrigstidens mest betydningsfulle forskningspolitiske dokument, den amerikanske "Science – the Endless Frontier"-rapporten fra 1945 (Bush, 1945), der grunnforskningens og forskningsfrihetens sentrale rolle i forskningspolitikken ble understreket: "Scientific progress on a broad front results from the free play of free intellects, working on subjects of their own choice, in the manner dictated by their own curiosity for the exploration of the unknown. Freedom of inquiry must be preserved under any plan for Governmental support of science. (Bush, s. 12).

#### "Post-moderne" begrunnelser av akademisk frihet.

Men det kan være problematisk å begrunne akademisk frihet med en realistisk kunnskaps-teori, slik Searle gjør, eller ut fra en forskningspolitisk posisjon som tar klart standpunkt for "ren forskning", til forskjell for forskning som også skjeler til samfunns- og verdimessige aspekter ved den kunnskap som produseres. I kjølvannet av den diskusjon Searles begrunnelsesstrategi reiser, følger de mange kontroversielle spørsmål som knytter seg til stikkord som relativisme, post-modernisme, konstruktivisme m.v. Searle har selv reist disse spørsmålene (Searle, 1994). I dette perspektivet framstår forskning med et eksplisitt verdigrunnlag og politisk agenda, slik som feministiske, etniske m.v. studier, som problematiske, fordi de ikke synes å etterleve de strenge akademiske krav som settes til "desinteressert" sannhet, nøytralitet og objektivitet. Det ekskluderer fagfelter og tilnærminger som *de facto* er vel etablerte akademiske fagfelter. Med den vekt en del

fagfelter og forskningstradisjoner legger på mangfoldet av perspektiver, på at kunnskap er kontekstuel konstruert og bestemt, bundet til makt og politikk etc., vil de kunne frakjennes den kompromissløse forpliktelse på sannhet som i Searles begrunnelse er det som gjør det legitimt å påberope seg de særlige rettigheter som akademisk frihet gir.

Men akademisk frihet kan begrunnes med utgangspunkt i de kunnskapsteoretiske posisjoner som Searle angriper, og da på måter som innebærer at disse ”problematisk” fagfeltene m.v. uten videre inkluderes. Filosofen Richard Rorty, som for Searle er en fremstående representant for det han ser som en omsegripende ”post-modernisme” og relativisme som undergraver vitenskapens objektivitet og uavhengighet, avviser at akademisk frihet må bygge på en realistisk kunnskapsteori (Rorty, 1997). Dersom en, som han, fremhever at kunnskap og forskning ikke kan unngå å være bundet til og formet av den kulturelle, sosiale og politiske kontekst den foregår innenfor, bør den uavhengighet og objektivitet som akademisk frihet skal sikre, begrunnes *sosio-politisk*, med ”the good which [...] universities do, their role in keeping democratic government and liberal institutions alive and functioning” (Rorty, 1997).

#### Akademisk frihet og vitenskapens ”sosiale kontrakt”

En aktuell debatt om forholdet mellom forskning og samfunn, og herunder om hvilken plass, begrunnelse og rammevilkår forskningsfrihet/fri forskning bør ha i dagens situasjon, føres som en debatt om forskningens ”sosiale kontrakt”. Den retter seg i stor grad kritisk mot den form for autonomi og forskningsfrihet som har hatt en solid posisjon i det meste av etterkrigstidens forskningspolitikk, slik det ble begrunnet av Bush og Polanyi (jf over). Det er en debatt der det har blitt reist tvil om det faktisk er riktig at det bare er når samfunnet støtter forskning uten andre forventninger og krav enn at det skal føre til god forskning, at samfunnet får mest igjen for sine ”investeringer”. Forskningsfriheten har i stor grad vært begrunnet med den *kulturelle* forpliktelsen samfunnet bør ha til å støtte forskning uten andre forventninger enn at det gir god vitenskap og sann kunnskap. Men i tillegg til denne kulturelle begrunnelsen for fri forskning, har en også argumentert for at den helt frie og rent nysgjerrighetsstyrte forskningen også i det lange løp den mest *samfunnsnyttige* forskningen. Dette argumentet hviler i stor grad på forskningens *uforutsigbarhet* (serendipity): det er ved å binde seg til masten og ikke blande seg inn i forskningens indre, rent kunnskapsstyrte dynamikk og prosess, at vitenskapen på helt uforutsigbare måter kan skape helt ny kunnskap (og teknologi) som gir grunnlag for velstand og problemløsning som ingen på forhånd kunne forestille seg.

I begge argumenter hviler autonomien og friheten således på en ”kontrakt” der grunnlaget for friheten er at den er en nødvendig, og – i noen radikale formuleringer av argumentet – også tilstrekkelig betingelse for at forskningen effektivt skal ”levere” det den lover. Implikasjonen er imidlertid også at grunnlaget for å opprettholde frihetsprivilegiet faller bort dersom de lovede resultater ikke innfris, eller samfunnets forventninger endrer seg. Kontraktsmetaforen har blitt en vanlig innfallsvinkel til diskusjoner om grunnlaget for vitenskapens autonomi; den springer ut av amerikansk forskningspolitisk debatt, men som

etter hvert har spredt seg også til vår europeisk og norsk debatt, ansett som kjernen i den ”sosiale kontrakten” som har gitt fri forskning i denne betydning og med disse begrunnelsene god tilgang til ressurser og beskyttede vilkår i etterkrigstiden politikk: ”the bargain struck between the federal government and university science – what we call the ”social contract for science” – can be summarized in a few words: Government promises to fund the basic science that peer reviewers find most worthy of support, and scientists promise will be performed well and honestly and will provide a steady stream of discoveries that can be translated into new products, medicines and weapons” (Guston & Kenniston, 1994: 2).

De forutsetninger som ligger til grunn for dette syn på hva slags organisering og hvilke betingelser som fører til resultater som er optimale, for vitenskapen så vel som for samfunnet er kommet under press. Mye av debatten i de siste 20-30 års forskningspolitikk har, formulert i kontrakttermen, vært et spørsmål om at ”tidligere” forskningspolitikk, basert på autonomi som grunnverdi, ikke lenger gir optimale resultater, verken vitenskapelig eller – særlig – samfunnsmessig. Særlig argumentet om uforutsigelighet synes svekket; det ble avvist i en av de tidlige klassiske debatter om prioritering i forskning: ”In general terms, and as a matter of probability, the ”unpredicatability” doctrine is surely *untrue*... The prospective utility of research is not *absolutely* unpredictable, but [mission-oriented agencies] can at any rate identify general areas of basic research holding out particular promise for their mission” (Toulmin, 1966: 160). Dette fører fram til senere diskusjoner om ”strategisk forskning”<sup>1</sup>, og har fått ett særskilt og særlig innflytelsesrikt uttrykk i Stokes, 1997. Han gjorde seg til talsmann for en ny ”sosial kontrakt” for forskningspolitikken, der det ville være viktigere å satse på grunnforskning som er ”bruksinspirert”, og i mindre grad på ”ren”, (grunn)forskning. Implikasjonen, formulert i kontraktbegrepet, er at ”the scientific community must seek to establish a new contract with policy makers, based not on demands for autonomy and ever increasing budgets, but on the implementation of an explicit research agenda rooted in [social] goals” (Senator Brown, sitert i Guston, 1994: 6). Guston (2000) har analysert de samme sider ved utviklingen av (amerikansk) forskningspolitikk, og pekt på hvordan de sentrale begrunnelsene for forskningens omfattende autonomi og selvregulering har kommet på vikende front. Utviklingen har dels kommet til uttrykk i sterkere vekt på relevans og ”strategiske hensyn”, som en motvekt til en oppfatning av at for sterk autonomi representerer en fare for ”adverse selection”, valg av forskningstemaer som ikke gir optimale samfunnsmessige resultater, selv om de er god vitenskap, eller også en fare for ”moral hazard”, - at selvregulering ikke er tilstrekkelig til å ivareta forskningens integritet (juks m.v) og derfor krever sterkere ekstern overvåkning og regulering (forskningsetikk mv.)

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<sup>1</sup> Denne diskusjonen er utførlig drøftet i Egil Kallerud (1992): Strategisk forskning. Kommentarer til et forskningspolitisk begrep, NAVFs Utredningsinstitutt., Rapport 5/92.

### 3 Hvor, når, for hvem og i hvilken grad gjelder akademisk frihet?

#### 3.1 Hvilke institusjoner?

Med utgangspunkt i de røtter begrepet om akademisk frihet har i forestillingene om Lehr- og Lernfreiheit, er det knyttet til en bestemt type institusjoner, ”klassiske” universiteter, der forskning og undervisning ble organisert og kombinert på bestemte måter, basert på bestemte kunnskapsteoretiske forutsetninger (jf Searle, Shils) og kulturelle/pedagogiske mål (Bildung; dannelse, karakterforming). I denne begrunnelsen av akademisk frihet gjelder den også uten videre for læring, undervisning og ”scholarship” ved universiteter med frie, liberale universitetsstudier etter ”the Norman/Leavis model” (Tight, 1988: 121), uansett hvor forskningsbaserte eller -tunge de er. Mye av den amerikanske diskusjonen om akademisk frihet er knyttet til forskningsuniversitetene (research universities), som er et lite mindretall og en helt spesiell type universiteter i et forskningsfinansieringssystem som skiller seg vesentlig fra det europeiske og norske.

Akademisk frihet er noe annet og mer (men også mindre) enn vitenskapens/ forskningens/forskerens frihet. Begrepet brukes vanligvis ikke om den form for forskningsfrihet som rene, spesialiserte forskningsinstitusjoner eventuelt kan påberope seg, men er knyttet til virksomheten ved institusjoner som kombinerer forskning og undervisning, og som dermed i en eller annen form og grad kan sies å gi *forskningsbasert* undervisning. I denne anvendelsen av begrepet gjelder det dermed på den annen side heller ikke for undervisning *på lavere nivåer*, hvor innhold og opplegg for undervisningen i sterkere grad enn i høyere utdanning er legitimt underlagt mål og styring utenfra.

Men litteraturen om akademisk frihet rommer også innslag som begrunner beskyttelse av lærere og studenter med henvisning til akademisk frihet i en langt videre bruk av begrepet. I en samling om emnet utgitt av amerikanske National Education Association er den beskyttelsen begrepet definerer og begrunner knyttet til ”the teaching profession” mer generelt, altså ikke begrenset til forskningsbasert undervisning, eller til undervisning på høyere utdanningsnivå. Her er begrepet utformet for å begrunne beskyttelse mot press for at undervisning skal rette seg etter spesielle verdistandpunkter og ortodoksier, og sikre mangfold, motsetninger og kritikk en sentral plass: ”Academic freedom includes the right of teachers and learners to explore and discuss divergent points of view. Controversial issues should be part of the instructional program when, in judgment of the professional staff, the issues are appropriate to the curriculum and to the maturity level of the student” (NEA, 1990). Her kan det likevel å være en glidning eller vektlegging som i like sterk grad understreker profesjonskontroll, som den enkelte lærers frihet i undervisningssituasjonen. Det er også bare et begrenset aspekt som anvendes, siden verken forskningsfrihet eller (elevers) læringsfrihet er relevante i en slik sammenheng.

Det synes likevel å være vanlig å anta at undervisning på lavere nivå har en så mye sterkere forpliktelse på å formidle allment aksepterte verdier, at det gir mindre god mening å snakke om akademisk frihet i slike former for undervisning. Samtidig kan også undervisning på høyere nivå være underlagt eksterne krav, for eksempel knyttet til profesjonssertifisering, på slike måter og i en slik grad at problemet med direkte eksterne føringer på undervisningens innhold og opplegg også kan gjøre seg gjeldende på dette nivå.

En beslektet, men annerledes begrunnet bred anvendelse av akademisk frihet for å beskytte undervisning og utdanning mot inngrep, er utledet av menneskerettighetserklæringen, og er knyttet til retten til utdanning. I en rapport fra Human Rights Watch vises til en tolkning av denne retten som innebærer at "the right to education can only be enjoyed if accompanied by the academic freedom of staff and students" (Human Rights Watch, 2005: 10). Her blir akademisk frihet definert med klar forankring i allmenne menneskerettigheter, og med spesifikk vekt på "educational activities": "Academic freedom gives member of the academic community the right to conduct and participate in educational activities without arbitrary interference from state authorities or private individuals or groups, including popular political, religious or other social movements. It is a broad principle that protects professors and students and applies to the complete range of academic pursuits – formal and informal -, inside the classroom and beyond. International law requires states to respect academic freedom, a principle based on a series of basic and widely accepted human rights" (ibid: 9). Slik begrunnet, får prinsippet en bred relevans for utdanning generelt, selv om det også her understrekes at det er spesielt viktig i høyere utdanning. Men begrunnelsen for dette er annerledes, ikke knyttet så mye til fri sannhetssøken som til det særlige behov for å beskytte *politisk* virksomhet på dette nivå (altså innenfor Searle's generelle teori om akademisk frihet): "Academic freedom is *particularly important* in higher education. Its community of young adults and highly educated teachers and researchers scholars includes individuals more inclined to be politically engaged and therefore, likely to be attacked by intolerant authorities or private citizens" (ibid: 10; kursivert her).

Et relatert spørsmål er i hvilken grad den akademiske frihet gjelder, eventuelt gjelder i innskrevet grad, ved høyere utdanningsinstitusjoner med et statuttfestet verdigrunnlag. I hvilken grad er utøvelsen av den enkelte faglige ansattes akademiske frihet begrenset av lojalitet til de spesielle verdier som institusjonen bygger sin virksomhet på? (Tight, 1987: 115). I AAUUs "1940 Statement of Principles on Academic Freedom and Tenure" var det åpnet for at visse typer høyere utdanningsinstitusjoner kunne legge begrensninger på sine faglig ansattes akademiske frihet "because of religious or other aims of the institution", under forutsetning av at dette er "clearly stated in writing at the time of the appointment". Men i de utfyllende kommentarer til prinsippene fra 1970 heter det at: "Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not now endorse such a departure."



Bruken av begrepet kan altså ha et svært variabelt institusjonelt spenn, med alt fra ingen til sterk kopling til forskningsfrihet og forskningsbasert undervisning. Det tilpasses, innskrenkes, gis tilleggsbetydninger m.v. for å kunne begrunne varierende typer og grader av friheter og rettigheter under varierende historiske og institusjonelle forhold. Dette fremheves gjennomgående i (oversikts)litteraturen, for eksempel slik: "A definition of academic freedom does not take hold and flourish adventitiously; it must be attuned to the key features of a particular academic system" (Metzger, 1978: 94).

I dette spennet av vide og snevre brukemåter finner en også kilder til konflikt og kontroverser om hvordan det skal anvendes: hvis begrepet har sin opprinnelse og fulle mening knyttet til det egenartede ved en bestemt type universitetsinstitusjoner, og kanskje endog i siste instans er begrunnet i en bestemt type kunnskapsteori (jf Searle: sannhet, og bare sannhet alene), og dessuten impliserer spesifikke forskningspolitiske posisjoner (jf Polanyi: friheten til å følge kunnskapens veier uansett hvor og uten å skjele til eventuell nytte/relevans), så kan utvidelsen til andre typer institusjoner hvor sammensetningen av og sammenhengen mellom aktiviteter er annerledes, reise problemer og motsetninger. En markant måte å stille dette problemet på er O'Hear, 1988, som fremhever at "management and business studies" ved universitetene ikke er berettiget til den beskyttelse som akademisk frihet gir. De hører ikke egentlig til den type studier som akademisk frihet bør gjelde for; de er fag som skaper "distortions" innenfor universitetene fordi de er "materially useful": "While there can be no objection to such schools [of business and management studies] in their proper place, it is quite unclear why they should exist in universities, or why people working in them should enjoy the academic freedom which involves their having tenure. Those who live by the market, should, if the occasion arises, be allowed to die by the market." (p. 14). "It is precisely because universities are useless institutions that they need academic freedom" (p. 15).

Med for snevre avgrensinger av gyldighetsområdet for akademisk frihet vil få universiteter og andre relevante forsknings- og utdanningsinstitusjoner (eller deler av disse) ha oppgaver og betingelser som samsvarer med de idealtypiske situasjoner der den opprinnelige og fulle betydning av akademisk frihet kan sies å gjelde fullt ut. Også innenfor universitets-kategorien utvikler det seg et stadig mer differensiert sett av institusjonelle rammer for vitenskapelig forskning. Dermed får imidlertid også begrepet en tvetydig status: er det først og fremst et spørsmål om å justere og tilpasse begrepet for en ny tid, eller bør det (også) ha normativ, retningsgivende kraft for disse endringene selv? Litteraturen fremhever gjennomgående at det ikke finnes uforanderlige definisjoner av akademisk frihet; hvilken agenda det reiser og hvilke implikasjoner det har endrer seg i lys av den (finansielle, institusjonelle mv) kontekst det hevder sin gyldighet innenfor. Dette knytter spørsmålet om redefinering av "akademisk frihet for vår tid" til de enorme endringsprosesser som har foregått i høyere utdanning m.h.t. funksjoner og oppgaver ("multiversity", entrepreneurial universities"), studentgrunnlag ("mass education"), økonomiske rammebetingelser for øvrig (ekstern finansiering, konkurranse/oppdrag), indre struktur (styrket administrativ og faglig ledelse), arbeidsformer (kollektiv forskning, nettverk), sterkere krav til ansvarlig og

effektiv bruk av ressurser etc etc. Hvis akademisk frihet "is in essence the right of staff in higher education to determine the nature of their work" (Neave, 1988: 43), så må denne kontrollen innfris under betingelser som innebærer at akademisk frihet i mindre grad er knyttet til forestillingen eller ønsket om å skape en beskyttet nisje ("bounded space"), "in which, free from external interference, it is possible to sustain an individual epistemic identity and a distinctive agenda at the head of a research group" (Henkel, 2005: 170). Spørreundersøkelser blant akademisk personale (bl.a. i Norge) gir det resultat at "most regard this "negative freedom" as a thing of the past, not only because of a changed policy environment, but also because developments in science necessitate collaboration outside as well as inside previously well-established disciplinary boundaries" (ibid). I forhold til de mange kontekstuelle og faginterne endringer, gir dette et totalbilde av hva akademisk frihet er, og av betingelsene for å opprettholde den, som gjør det irrelevant å tolke begrepet ut fra en forestilling om at dets gyldighet forutsetter eksistensen av en avsondret og beskyttet aktivitets- og normsfære: "At both macro and micro levels the value of academic autonomy remains strong: perhaps not surprising, in view of its centrality in the concept of academic identity. However, its meaning is changing. The rights of academics to determine their own agendas now must be set against competing rights. Academics no longer work in a bounded space. Rather, academic autonomy has become something that must be realised by managing multi-modality and multiple relationships in a context where boundaries have either collapsed or become blurred. .... It seems that all scientists must negotiate between social and institutional pressures and preservation of identity" (Henkel, 2005: 173)

### 3.2 Hvilke grupper?

#### *Faglig ansatte*

##### Frihet og faglig autoritet

Akademisk frihet regulerer akademikers utøvelse av akademiske gjøremål. Noen akademiske grupper har en mer omfattende eller fullstendig frihet enn andre, og kan i kraft av det også utøve en viss grad av legitim styring og kontroll av andre med mindre omfattende selvstendighet og frihet. Vi så at Searle utledet et slikt hierarki mellom akademiske grupper på grunnlag av sin "spesielle teori" om akademisk frihet, hvorav det følger at universiteter bør organiseres som "an aristocracy of the trained intellect", der professoren er den som er best kvalifisert til å utøve akademiske oppgaver i samsvar med den kunnskapsteori og -etikk som ligger i denne teorien. Det hierarkiske forhold dette skaper gjelder åpenbart i forholdet til studenter: "In virtue of his [sic] special competence in some area of academic study – and competence includes knowledge of existing results and mastery of the techniques of validation and investigation of some academic discipline – the professor is given special rights of investigation, of dissemination, and of certification of students". (Searle, 1972: 171). Men det *kan* også implisere (avtakende) hierarkirelasjoner mellom andre akademiske grupper m.h.t. utøvelse av akademisk autoritet, som i noen grad kan begrense andre gruppers akademiske frihet, som i forhold til personer i forskerutdanning og i post-doc-stillinger.

Det følger også av dette at økende grad av kompetanse, i retning av kompetanse til selvstendig å *lede* forskning, medfører utvidede rettigheter i henhold til akademisk frihet, og – omvendt – mangel på eller begrenset kompetanse, kan innebære en innsnevring av disse rettigheter, bl.a. gjennom veiledning og ledelse av faglig overordnede. Den akademiske frihet til underordnede kan ut fra et slikt resonnement være begrenset av overordnede/mer kompetente kollegers *akademiske* autoritet. Det kan omfatte begrensninger i retten til å initiere forskning ut fra egen vurdering, valg av metode/tilnærming, og det kan gjelde retten til å publisere. En illustrasjon på at spørsmålet om å gradere akademisk frihet på denne måten kan være problematisk er den sak som foranlediget en editorial i Science fra 3. mars, 2006 om et forsøk fra ”senior scientists” ved Oregon State University på å forhindre – begrunnet med metodiske innvendinger - at Science publiserte en artikkel med kontroversielt vitenskapelig innhold, skrevet av andre forskere ved samme universitet og institutt, og med en doktorgradstudent som hovedforfatter. Science oppfattet dette som forsøk på sensur, og andre forskere som kjente til saken ”expressed deep concern about whether academic freedom was under threat” (Kennedy, 2006: 1213). Sensurforsøket slo tilbake; universitetets administrative ledelse sendte ut en uttalelse med sterk støtte til akademisk frihet, og den finansierende instans omgjorde beslutningen om å trekke støtten.

Saken peker på et dilemma, mer enn den angir en klar moral: retten til publisering er *legitimt* underlagt begrensninger og – om man vil – ”sanksjoner” (f.eks. avslått publisering) på basis av vitenskapelig autoritative vurderinger og beslutninger av kompetente peers om metoders og resultatets vitenskapelig kvalitet og holdbarhet, innenfor forskergrupper som i vitenskapelige tidsskrifters redaksjoner. Sensurspørsmålet kom inn ved at resultatene ikke bare kan være vitenskapelig omstridt, men også ha politiske implikasjoner som er kontroversielle og ubehagelige for den som finansierer forskningen eller andre myndigheter med mulighet til å utøve sanksjoner. Men fordi akademisk frihet er legitimt regulert av vitenskapelig autoritet, bl.a. basert på peer review i mange ulike former, vil det på disse arenaene for utøvelse av peer-autoritet kunne oppstå gråsoner og tolkningskonflikter. Det kan være vanskelig å skjelne mellom legitim autoritetsutøvelse og det som i *form* er begrunnet med faglige argumenter, men som kan ha en skjult og illegitim utenomfaglig agenda.

### Indre trusler mot friheten

I forlengelsen av dette ligger også den omfattende debatt, særlig i USA, om påståtte overgrep på illegitimt, ikke-akademisk grunnlag innenfra, i den form for konformitetspress som gjerne omtales som ”politisk korrekthet”. Det er en (påstått) form for brudd på akademisk frihet som springer ut av *akademisk* ortodoksi, meningspress innenfor det akademiske miljø selv. Denne debatten målbæres (i USA) ofte av konservative, rettet mot former for ortodoksi med en radikal eller liberal slagside. Det fremheves at slike indre former for ortodoksi også er en trussel mot akademisk frihet fordi den innebærer at den uenighet og åpenhet for alternative tilnærminger som akademisk frihet skal fremme, blir undertrykt og utelukket. Det er i dette konfliktområdet den amerikanske debatten om ”The

Academic Bill of Rights” (se s. 30-31) utspiller seg, og der argumentasjonen snus opp ned, og de sentrale verdier i akademisk frihet-begrepet brukes som argument for å utfordre og intervensere i det akademiske selvstyre utenfra. Derfor avviser også AAUP utspillet, men problemstillingen om akademisk ortodoksi, konformisme og makt synes likevel ikke irrelevant for spørsmålet om den enkelte forskers akademiske frihet. John Ziman påpeker (Ziman, 2000: 170) at det normative krav om ”desinteressert” neppe er en god beskrivelse av forskeres holdning til de teorier og forskningsprogrammer de bygger sin egen karriere på. Vitenskapsteoretiske og -historiske studier av den type Thomas Kuhn står for, understreker også at det kan være en sterk spenning mellom ”konformitet” og originalitet i vitenskapens utvikling. Den ”normalvitenskapelige” hverdag kan være mer preget av disiplin og samstemmighet enn originalitet og uenighet. Samtidig kan de mange arenaer for legitim utøvelse av peer-basert autoritet gi betydelig spillerom for konformitetsfremmende maktutøvelse. Hvorvidt dette er spørsmål som er relevant for diskusjonen om akademisk frihet er bl.a. avhengig av om begrepet forstås slik at det utelukkende og per definisjon har å gjøre med beskyttelse mot trusler og press utenfra, eller om det også kan være ramme for en diskusjon om og regulering av autoritetsutøvelse innenfor det akademiske samfunn. Dermed kan det også ha implikasjoner for hvordan ulike peer review-prosesser er organisert og faglig ledelse utøves på.

En beslektet problemstilling sto sentralt i britisk diskusjonen om akademisk frihet på 1980-tallet, da studentaksjoner forhindret konservative politikeres adgang til å delta på og holde (allment upopulære) innlegg på arrangementer ved institusjonene. Akademisk frihet ble da brukt som argument for en ”open-door policy (Parekh, 1987: 69), fordi den gir alle en rett til uhindret å ytre seg ved akademiske institusjoner, uansett hvor kontroversielle og upopulære ytringene er. Men det ble også brukt som argument for den motsatte ”no platform” posisjon, som innebærer at universiteter ikke bør åpne for en type politisk debatt som bryter med grunnleggende akademiske normer for saklighet, dialog og ”truthseeking”. Også 1970-tallets debatt da studentaktivisme forhindret normal utøvelse av normale akademiske oppgaver hører med i dette spørsmålet om indre konformitetstrusler mot den akademiske frihet. Searles bidrag (1972) ble skrevet i den sammenhengen.

### Uoppsigelighet

Det kan også følge en viss hierarkisk ordning av ulike gruppers akademisk frihet at det tradisjonelt har vært tett koplet til spørsmålet om uoppsigelig tilsetting (tenure). Uoppsigelig tilsetting følger av prinsippet om akademisk frihet, fordi det gir en sterk beskyttelse mot den sterke form for akademisk sanksjon det er å bli avsatt som følge av ytringer som mishager ytre og indre myndigheter og autoriteter. Men det er ikke enighet om hvor sterkt de to spørsmål henger sammen eller bør koples. Det forhindrer at upopulære ytringer kan sanksjoneres med oppsigelse. Slik sett er det del av det mer omfattende spørsmål om ytringsfrihet i demokratiske samfunn, og er – i hvert fall i samfunn der ytringsfrihet (formelt) gjelder – også relevant for andre grupper der lojalitetskrav og ytringsfrihet kommer i konflikt med hverandre (jf ”varsler”-spørsmålet). Uoppsigelighet gir heller ikke beskyttelse mot mange andre, mer vanlige, mer skjulte og

mindre dramatiske former for sanksjoner. Og en nær kopling mellom akademisk frihet og fast, uoppsigelig tilsetning kan ikke medføre at ikke akademisk frihet gjelder i mer eller mindre samme grad for faglig ansatte, uansett om de er i midlertidige, mer oppsigelige eller uoppsigelige stillingsforhold. Enkelte mener at disse spørsmålene i dag har lite med hverandre å gjøre. (Tight, 1987) Den kan således, fra en arbeidsgiver- og/eller samfunnssynsvinkel, være en høy kostnad, i form bl.a. av redusert fleksibilitet, for et gode som den i liten grad bidrar til å opprettholde. Det finnes mange andre, mindre synlige, men likevel graverende former for urettmessige sanksjoner som uoppsigelige ansettelsesforhold ikke beskytter mot. Andre mener at den omfattende undergraving av ordninger med uoppsigelige stillingsforhold som finner sted i mange universitetssystemer representerer en alvorlig trussel mot akademisk frihet.

### *Studenter*

Med referanse til Lernfreiheitsbegrepet inkluderes rutinemessig "students' freedom to learn" i vanlige definisjoner av akademisk frihet. Men det tyske Lernfreiheitsbegrepet innebar at studenter hadde fullt ansvar for egen læring, og hadde bl.a. som en praktisk konsekvens at de kunne velge fritt blant det tilbud som ble gitt på tvers av alle universiteter. Tysk "Lernfreiheit" innebar "the right of the student to wander about the country from one university to another .... and to attend whatever lectures he liked in preparation for national degree examinations" (Searle, 1972: 179). I denne betydning fikk studenters akademiske frihet liten relevans i amerikansk sammenheng, der undervisningen ble mer fast strukturert, og universitetene langt på vei tok både lærings- og oppdrageransvar for studentene. Følgen var at: "in America, academic freedom would ever be a one-class privilege; student freedom, even when it became a cause, would be regarded as something else, and by most academics as something less" (Metzger, s. 96).

I Searle's skille mellom spesiell og en generell teori om akademisk frihet, hører studenters rettigheter bare inn under den generelle teorien: "Adherents to the classical [dvs. den spesielle] theory are hard to put content to the notion of academic freedom for students [...] Under the Special Theory student academic freedom is at best a small territory, and some classical theories even claim that students don't have academic freedom at all" (s. 179).

Ut fra et syn på at studenters akademiske frihet bare "should be accorded to students according to their needs" (Tight, 120), så ville de "not, for example, any more than the generell public, have an automatic right to a say in the control of teaching or research, or in the manufacture, or in the management of the institutions which they attend or receive their instruction from" (ibid). Jo mer strukturert og fastlagt lære- og undervisningsprogrammene er, desto mindre kan det sies å være Lernfreiheit i læringen. En kommentar til dette spørsmålet er denne: "It would seem that many present-day students do not want academic freedom, or [...] would not know what to do with it if they were suddenly given it" (Tight, 1988: 122). Men slike observasjoner om faktisk svekkelse og redusert relevans for akademisk frihet for studenter og læring, kan – igjen – snus om som grunnlag for en fagpolitisk agenda om hvordan akademisk læring og høyere utdanning bør endres, for

eksempel: "But perhaps it would be in the best interest if [students] were [given academic freedom], for higher education is hardly about spoon-feeding. Students should surely [...] be encouraged to participate in determining what they study and how they go about it, to engage in a process of personal and group exploration" (ibid). Dette kan igjen ha implikasjoner bl.a. for hva slags studenter en ønsker å ta opp ved institusjoner der visse former og grader for akademisk frihet skal gjelde.

Men også formelle amerikanske definisjoner av akademisk frihet inkluderer likevel "the freedom of students to study the subjects and to pursue the courses of study that appeal to them and vocational interests in universities that they have themselves chosen to attend, and to form associations in accordance with their intellectual, political and convivial interests" (Shils, 1991: 3). Og bl.a. Shils (1997) og Kennedy (1997) understreker at "responsibility to students [...] at the very core of the university's mission and of the faculty's academic duty" (Kennedy, 1997: 59), med de føringer og begrensninger på undervisningsfriheten det også innebærer.

Studenters akademiske frihet gjelder mer uproblematisk og uavskåret innenfor det Searle beskrev som den akademiske frihetens generelle teori, der den akademisk frihet koples sterkt til allmenne borger- og menneskerettigheter, og har stor betydning bl.a. i diskusjoner om akademisk frihet i repressive politiske regimer. Blant studenters akademiske frihetsrettigheter i denne betydning hører retten til beskyttelse mot inngrep i retten til høyere utdanning som følge av politisk aktivitet, slik at ikke studenters bruk av allmenne borger- og ytringsrettigheter kan føre til at de fratras retten til studieplass.

### 3.3 Hvilke oppgaver/roller?

I følge en Shils gjelder akademisk frihet for "akademiske gjøremål", dvs. frihet "to do academic things". (Shils, 1997: 155). Med det er det åpnet for at friheten ikke bare gjelder primære akademiske oppgaver, men også avledete oppgaver som er indirekte relatert til og har en vesentlig betydning for betingelsene for å ivareta primære akademiske oppgaver, slik som deltakelse i beslutningsprosesser, i administrasjonsoppgaver, i utnevnelser av professorer m.v.: "Academic freedom could be, and has been, claimed for any or all of the activities which academics engage in as academics: i.e., teaching, scholarship, research, publication, administration and learning" (Tight, 1987: 117).

Gjelder den beskyttelse akademisk frihet *enhver* ytring og ethvert gjøremål av akademisk karakter, eller gjelder den bare når det skjer innenfor vedkommendes spesialområde og anerkjente ekspertise? Har akademikere mer omfattende rettigheter enn andre når de ytrer seg i spørsmål som ligger utenfor vedkommendes særskilte akademiske kompetanse-område?

### 3.3.1 Primære akademiske roller/oppgaver

#### *Undervisning*

Lehrfreiheit, akademikerens frihet til å velge tema, innhold og framstilling for sin undervisning er en kjerne i den akademiske frihet. Men utøvelsen av også denne friheten er balansert i forhold til flere faktorer. Den enkelte står ikke *helt* fritt til på egen hånd å velge hvilken undervisning han/hun vil gi; valget er begrenset av egen kompetanse og kontrakten med institusjonen, og må passe inn i kollektivt besluttede rammer og programmer for undervisningen.

Ut fra argumentet om at det av den akademiske frihet kan avledes en rett til å utøve innflytelse på rammebetingelsene for utøvelsen av akademiske oppgaver, medfører den en rett til å delta i prosessen med å bestemme pensum og undervisningsprogram. Det vil kunne være store forskjeller i frihetsgrader mellom lavere og høyere nivå's undervisning, bl.a. avhengig av hvor direkte forskningsbasert undervisningen skal være. Ytterligere en begrensning på undervisningsfriheten ligger i at det som ytres i undervisningssituasjonen må være direkte knyttet til emnet for undervisningen og undervisningsformålet.

Som nevnt over, kan også friheten være begrenset av en plikt til å unngå ensidighet, verdiladet språkbruk etc. Med utgangspunkt i en slik forståelse av akademisk frihet i undervisningen, har det særlig i amerikansk sammenheng blitt brukt som argument mot propaganda og indoktrinering i undervisningen, rettet mot "politisk korrekt" liberal propaganda" (PSAF, 204) og mot konfesjonelt basert, konservativ/religiøs undervisning (NEA, 1990). Det argumenteres bl.a. med at akademisk frihet i undervisningen innebærer krav om at undervisningen skal være politisk-religiøst nøytral, og at et mangfold av synspunkter og perspektiver skal presenteres. På det grunnlag kan henvisning til akademisk frihet begrunne krav (utenfra) om større mangfold i det som utenfra (for eksempel) framstilles som ensidig (venstredominert, liberal etc) undervisning. Slik kan den rett til uenighet og avvikende ytringer som akademisk frihet beskytter snus om i forhold til det opprinnelige argument om at akademisk frihet innebærer en rett til å ta opp emner og fremme ytringer som er kontroversielle i forhold til sterke interesser og pressgrupper utenfor institusjonen.

Diskusjonen om ortodoksi og "indoktrinering" i undervisningen har i amerikansk debatt tatt en spesiell vri gjennom et forslag ("Academic Bill of Rights", initiert av en D Horowitz, "left-wing radical turned conservative pundit" i følge AAUP, jf <http://www.aaup.org/Issues/ABOR/aborintro2.htm>) om ny delstatslovgivning om høyere utdanningsinstitusjoners forpliktelse til å etterleve prinsippet om beskyttelse mot ortodoksi og krav til mangfold og pluralisme i undervisningen. Utspillet er rettet mot en form for ortodoksi og ensretting som er definert politisk: at demokrater/liberalt orienterte akademikere er i flertall ved høyere utdanningsinstitusjoner. Det er fullt ut formulert i termer som alle er hentet fra AAUPs retningslinjer, og fremhever særlig de rettigheter studenter i hht prinsippet om akademisk frihet har til pluralisme i undervisningen:

*This protection includes students. From the first statement on academic freedom, it has been recognized that intellectual independence means the protection of students – as well as faculty – from the imposition of any orthodoxy of a political, religious or ideological nature. The 1915 [AAUP] General Report admonished faculty to avoid “taking unfair advantage of the student’s immaturity by indoctrinating him with the teacher’s own opinions before the student has had an opportunity fairly to examine other opinions upon the matters in question, and before he has sufficient knowledge and ripeness of judgment to be entitled to form any definitive opinion of his own.” In 1967, the AAUP’s Joint Statement on Rights and Freedoms of Students reinforced and amplified this injunction by affirming the inseparability of “the freedom to teach and freedom to learn.” In the words of the report, “Students should be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion.*

AAUP avviser utspillet, som snur opp ned på det prinsipp det selv stiller seg bak om at det skal skilles mellom “indoctrination and proper pedagogical authority” i undervisningen. De forelåtte retningslinjene legger imidlertid opp til å måle etterlevelse av kravet til mangfold og åpenhet ”by political standards that diverge from the academic criteria of the scholarly profession. Measured in this way, diversity can easily become contradictory to academic ends.... [T]he appropriate diversity of a university faculty must ultimately be conceived as a question of academic judgment, to be determined by the quality and range of pluralism deemed reasonable by relevant disciplinary standards, as interpreted and applied by college and university faculty. Advocates for the Academic Bill of Rights, however, make clear that they seek to enforce a kind of diversity that is instead determined by essentially political categories, like the number of Republicans or Democrats on a faculty, or the number of conservatives or liberals. Because there is in fact little correlation between these political categories and disciplinary standing, the assessment of faculty by such explicitly political criteria, whether used by faculty, university administration, or the state, would profoundly corrupt the academic integrity of universities. Indeed, it would violate the neutrality principle itself. For this reason, recent efforts to enact the Academic Bill of Rights pose a grave threat to fundamental principles of academic freedom.” (AAUP, 2003).

I USA gjelder mange saker om akademisk frihet den beskyttelse en lærer bør ha mot innblanding på grunnlag av klager fra studenter, for eksempel på ideologisk, religiøs, politisk m.v. slagside i undervisningen. AAUP presiserer at deres retningslinjer ikke åpner for inngrep fra utenforstående, presiserer at de ikke skal ”discourage what is ”controversial”, fordi: ”Controversy is at the heart of the free academic inquiry”. Derimot innebærer de at en bør “avoid persistently intruding material which has no relation to their subject”. Dermed er inngrep ikke berettiget i forhold til kontroversielle emner i undervisningen, og heller ikke nødvendigvis i forhold til en ”ikke-nøytral”, vinklet tilnærming *i seg selv*, det avgjørende blir måten undervisningen er lagt opp på, vurdert ut fra undervisningsformålet og akademiske normer for saklig behandling og språkbruk (Atkinson, 2004).



## *Forskning*

Mens det opprinnelige begrep om akademisk frihet var knyttet til undervisning og læring, ble etter hvert forskningsfriheten inkludert som kjerneelement. De fleste moderne definisjoner av akademisk frihet omfatter friheten til å velge forskningstema og metode/tilnærming, og til uhindret publisering av resultatene. Likevel er, hvis en støtter seg på en autoritet som Metzger, spørsmålet om forskningsfrihetens betingelser og grenser gitt en begrenset drøfting innenfor den tradisjonelle forståelse av og tilnærming til akademisk frihet som ikke minst AAUP står for. Her har fokus først og fremst ligget på forholdet mellom institusjon og akademisk ansatt. Det forhold mellom forskning og samfunn, eller – mer spesifikt – på forskningens forhold til den som finansierer forskningen, som er det sentrale under moderne forskningsbetingelser, er i liten grad berørt i denne tradisjonen.

Politisk sensur av forskeres publisering av forskningsresultater som anses kontroversielle og skadelige for viktige nasjonale og/eller mektige gruppers vitale interesser, er et spørsmål som står sentralt. Det gjelder ikke bare i forhold til hensynet til nasjonal sikkerhet, men også i forhold til publisering av vitenskapelige resultater som ”undergraver” politiske posisjoner, slik det bl.a. foregår en debatt i USA (og Australia) om forskeres rett til å gå ut med resultater som er kontroversielle og/eller motsier den sittende administrasjonens posisjoner om global oppvarming (Nature 2006, 23 februar 2006, s. 891; 896-897). Dette er et spørsmål som gjelder akademisk frihet, delvis forskningsfrihet mer generelt. En viktig side ved denne debatten dreier seg om den rett forskere som er ansatt i statlige organer (agencies) som NASA, NIH og liknende har til å publisere resultater som ikke samsvarer med institusjonens og/eller regjeringens posisjoner, mens grensedragningen mellom lojalitetskrav og publiseringsfrihet synes noe enklere for universitetsansatte forskere, p.g.a. universitetenes status som uavhengige, ”nøytrale” institusjoner.<sup>2</sup>

### Uhindret valg av forskningstema og -metode

#### *Tilgang til ressurser*

En betingelse for å realisere et helt fritt valg av forskningstema er tilgang til ressurser til slik forskning. Universitets- og høyere utdanningssystemer er svært ulike m.h.t. betingelser for finansiering av fri forskning (Schimank & Winnes, 2000; Martin, 2003, Geuna, 2001). Særlig i amerikansk litteratur om akademisk frihet er det *betingede* ved friheten til å velge forskningstema fremhevet; det er ingen selvfølge, for mange i realiteten bare unntaksvis, at det er mulig å skaffe ressurser som måtte være nødvendig for å gjennomføre den ønskede forskningen. I USA skjer finansiering av forskning innenfor et system der det meste av (universitets)forskningsmidlene fordeles på prosjektbasis etter konkurranse av føderale forskningsråd og lignende, og derfor gir et vesentlig skjevare fordeling i favør av et fåtall forskningsuniversiteter enn i de fleste europeiske forsknings-systemer. Koplingen mellom spørsmålet om individuell forskningsfrihet og tilgangen til ressurser er mer direkte i (særlig europeiske) systemer, der mye av forskningsressursene er

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<sup>2</sup> Jf også den aktuelle, nært beslektede norske saken med utspring i Havforskningsinstituttet, Aftenposten, 1.4.2006.

bygget inn i den enkelte kombinerte undervisnings- og forskerstilling. I den toneangivende amerikanske forståelsen av akademisk frihet kan det derfor ikke utledes en *rett* til de ressurser som – i større eller mindre omfang – måtte være nødvendig for faktisk å kunne gjennomføre rent nysgjerrighetsbasert forskning.

Men denne problemstillingen reises i en svensk rapport (Bennich-Björkman, 2004), der svenske akademikere er intervjuet. De fleste fremhever at de opplever at de har akademisk frihet, for så vidt de ikke opplever inngrep i sin akademiske gjerning; men denne forskningsfriheten er mer formell enn reell fordi stadig mindre ressurser er tilgjengelig for fri forskning. ”I själva verket er det inte ... frågan om den direktstyrning av det slag som tillämpas inom industrien den mest brännande när akademisk frihet står i fokus. I stället er det hur förutsättningarna för en inomvetenskaplig driven forskningsutveckling visavi en utifrån bestämd forskningsagenda påverkas av den nuvarande som framstår som det mest relevanta att diskutera.... Den akademiska friheten kopplas därför hos de allra flesta starkt ihop med möjligheterna att överhudtaget komma över ressurser för att bedriva någon forskning alls. För att göra det krävs anpassning och taktik. Friheten blir en chimär om den inte förses möjligheter att förverkligas eller användas” (ibid: 27).

Når individuell akademisk frihet tolkes på denne måten, ikke bare som frihet fra inngrep, men også som frihet, og en mulig rett, til reelt å bruke friheten til valg av forskningstema, koples spørsmålet direkte til ulike kontroversielle spørsmål om forskningsrett og -plikt, tid til forskning, enhet mellom forskning og undervisning, mer kollektiv forskning og sterkere forskningsledelse m.v.

Og det bringer diskusjonen opp på et mer generelt forskningspolitisk nivå, om spørsmål om balansen i forskningsfinansieringen mellom fri (”responsive mode”-finansiert) og (tema)styrt forskning. Tolket som en mulig rett til reell utøvelse av den akademiske forskningsfriheten, kan implikasjonen være at å forplikte seg på akademisk forskning som sentral verdi impliserer en plikt til å øke bevilgningene til fri, forskerinitiert forskning. Og en utvikling i retning av at forsknings- og undervisningsressurser og -aktiviteter koples fra hverandre kan neppe sies å være i samsvar med denne tolkningen av akademisk frihet, spesielt ikke for de som evt også mister de forskningsressurser de allerede disponerte.

Men å bringe den ressursmessige balansen mellom temastyrt, strategisk, ”bruksinspirert” (Stokes, 1992) og fri forskning inn i diskusjonen, legger altså til grunn en tolkning som ikke er solid forankret i begrepets tradisjon. Skjevheter eller forskyvninger i ressursfordelingen mellom vitenskaplige fagområder som følge av (økende vekt på) ”strategiske” mv hensyn, betyr heller ikke nødvendigvis at enkeltforskernes frie valg av forskningstema er truet; sponsorers og mange forskeres interesser vil i stor grad kunne falle sammen, men det vil kunne medføre at ulike forskere vil ha ulike muligheter til å gjennomføre den forskning de ønsker.

### *Forskningsfrihet, -ledelse og –strategi*

Forholdet mellom individuell frihet og institusjonell styring/lojalitet m.h.t. valg av forskningstema kan komme i økende konflikt med hverandre gjennom en utvikling der også de forskningsressurser som institusjonene selv i utgangspunktet rår over (der forskningsmidler tradisjonelt ble fordelt som en fast overhead i bevilgninger til forskningsbasert undervisning), i økende grad tildeles og fordeles på basis av institusjonelle valg som setter rammer og begrensninger for individuell forskningsfrihet. Dermed blir den type politisk-strategiske føringer på forskningsbevilgninger som har vært normalt for særskilte forskningsfinansierende organer, som forskningsråd og lignende, også i sterkere grad formidlet gjennom institusjonene selv, som krav og forventninger om styrket forskningsledelse og utvikling av institusjonelle forskningsstrategier. Slike spørsmål synes lite drøftet i litteraturen om akademisk frihet. Det står derimot sentralt i EU-kommisjonens The European Charter for Researchers, som på den ene siden fremhever prinsippet om forskningsfrihet ("research freedom") i tråd med vanlige formuleringer av akademisk frihet, men som samtidig bl.a. understreker at:

*Researchers should, however, recognise the limitations to this freedom that could arise as a result of particular research circumstances (including supervision/guidance/management) or operational constraints, e.g. for budgetary or infrastructural reasons or, especially in the industrial sector, for reasons of intellectual property protection. Such limitations should not, however, contravene recognised ethical principles and practices, to which researchers have to adhere.*

Det fremheves også at forskere må se til at "their research is relevant to society", og at de skal være "familiar with the strategic goals governing their research environment, and should seek all necessary approvals before starting their research or accessing the resources provided". Her legges det m.a.o så stor vekt samfunnsrelevans og lojalitet til egen institusjon at det kan representere en kilde til konflikt med de uavhengighetshensyn som akademisk frihet fremhever.

I den forståelse som charteret gir uttrykk for er altså forskningsfriheten på arbeidstakersiden betinget og begrenset av en lang rekke forpliktelser som i liten grad er berørt i akademisk frihet-litteraturen. Men den fremhever også, omvendt, arbeidsgivers plikt å anerkjenne "all researchers engaged in a research career [...] as professionals", og for øvrig engasjere seg aktivt tilretteleggende bl.a. "to ensure that the most stimulating research or research training environments is created which offers appropriate equipment, facilities and opportunities", i motsetning til den vekt som i akademisk frihet-sammenheng legges på den negative plikt til ikke å blande seg inn i den individuelle, akademiske forskergjerningen.

Slik sett kan også sterk institusjonell og faglig ledelse også være viktig for å styrke grunnlaget for å ivareta mange av de verdier og hensyn som er koplet til akademisk frihet, bl.a. ved å representere en buffer mot utilbørlig press utenfra.

### *Kommersialisering*

Merton fremhevet at ”kommunalisme” – at vitenskapelig kunnskap skal være åpent tilgjengelig for alle – og ”desinteressethet” – at vitenskapelig kunnskap skapes for sin egen skyld, ikke som middel for utenforliggende formål – står, og bør stå, sentralt i akademisk forskning. I det perspektiv kan økende kommersialisering av forskningsresultater, med hemmelighold og patentering som konsekvens, føre til norm- og interessekonflikter (Slaughter & Leslie, 1997). Det kan skyldes at forskeren selv har kommersielle interesser i resultatene, eller at det er inngått avtaler med sponsorer som legger føringer på resultatrapportering og publisering som strider mot de akademiske normer for kunnskapsproduksjon og -spredning. Konflikten kan løses ved kompromisser som ikke nødvendigvis kompromitterer de akademiske normer, som ved utsettelse av publisering, eller ved at publisering ut fra akademiske hensyn kan overstyre kommersielle hensyn. Men det kan også føre til at tilliten undergraves til at det som publiseres er fullt ut bestemt av den vitenskapelige valideringen av resultatets holdbarhet og relevans.

Hvorvidt økende vektlegging av den kommersielle verdi av forskningsresultater anses å være i konflikt med akademiske frihetsverdier, vil i stor grad avhenge av hvor vidtgående implikasjoner en mener hensynet til akademisk frihet har eller bør ha. Det er bekymring for at en forskningspolitikk som kanaliserer økende deler av forskningsressursene ut fra kommersialiseringshensyn vil føre til en skjev forskningsdagsorden og ressursfordeling. Det kan være åpent hvorvidt dette direkte angår akademisk frihet, i hvert fall så lenge normene for god vitenskap og forskning ikke kommer direkte under press i den forskning som faktisk utføres. Det kan også være et spørsmål om denne skjevfordelingen i noen rimelig grad kan motvirkes og en bedre fordeling av ressurser kan oppnås ved å skape større rom for fri forskning, dvs økt handlingsrom for forskeres valgfrihet på vitenskapelig grunnlag, eller om det er mer sannsynlig at skjevfordeling kan motvirkes og rettferdig fordeling ut fra allmenne interesser kan oppnås, dersom en snarere la vekt på at *andre* eksterne interesser og behov enn de kommersielle bør få sterkere innflytelse over ressursfordelingen og forskningsdagsordenen.

Men aspekter ved kommersialisering kan representere mer direkte trusler mot den akademiske integritet. Akademisk frihet skal være en garanti for tillit til at det en akademiker hevder som sant er fullt ut bestemt av vedkommendes selvstendige vurdering av resultatenes strengt vitenskapelige innhold og validitet, og at utenforliggende hensyn ikke har spilt inn. Måten forskningen er gjennomført og resultatene framstilt på skal ikke kunne oppfattes å være valgt for å tjene egne eller andres, gjerne sponsorens, interesser, kommersielle eller andre. Det vil være åpenbare brudd på akademiske normer og misbruk av den akademiske frihet å offentliggjøre ”redigerte”, eller endog forfalskede, resultater, og det vil være en trussel for den akademiske frihet om det foreligger pressmuligheter og bindinger som gjør det vanskelig å motsette seg eller som frister til redigering av resultater med utenforliggende hensyn for øye.

Men igjen kan truslene mot akademisk integritet også komme innenfra. Forskningens iboende konkurranse, kappløpet om å være først med å publisere banebrytende resultater, kan også føre til juks og mangelfull publisering, og indikere at fristelsene og presset i stor grad også kan springe ut av mekanismer innenfor den akademiske forskningen selv.

Ulike tolkninger eller betoning av hva akademisk frihet er kan også ha implikasjoner for spørsmålet om eiendomsrett til akademisk intellektuelle produkter. Er det oppdrags-giver/finansieringskilde, institusjonen eller den enkelte akademiker som har eiendomsretten, og som derfor kontrollerer bruken av den og skal ha inntekter av evt kommersialisering i en eller annen form? I et akademisk frihets-perspektiv er det for eksempel påpekt at forhandlinger om fordeling av utbytte av intellektuell eiendom i seg selv kan være en vei til en "Faustian bargain" (Rhoades, 2001), fordi det legger til grunn at akademisk produkter er privat eiendom, varer for salg til fortjeneste på et marked. Det kan hevdes at formålet med akademisk eiendomsrett til og kontroll med bruken av akademisk produkter ikke er at de skal sikres en andel av inntektene av kommersialiseringen av dem, men tvert imot at resultatene blir forvaltet i samsvar med vitenskapens egne normer for åpenhet og desinteressethet, og slik bidrar til å bevare "academe's traditional commitment to serve the public interest by creating intellectual products for free public use" (ibid). Dette er ett utgangspunkt for en diskusjon av reguleringen av eiendomsrett til og kontroll med forskningsresultater m.h.t. balansen mellom tilgjengeliggjøring og proprietarisering av vitenskapelig kunnskap. Det er likevel en annen og videre begrunnelse for den vitenskapelige kunnskapens åpenhet og tilgjengelighet enn bare ut fra kriterier om hvilken balanse som mest effektivt bidrar til teknologioverføring og innovasjon. Konklusjonene kan likevel være de samme – vitenskapelig kunnskap bør ikke i for sterk grad proprietariseres. Det synes å være evidens for at akademisk patentering ikke fører til mer effektiv teknologioverføringen, selv om det ligger til grunn rådende politikk for akademisk patentering (Geuna & Nesta, 2003). Og trusselen kan, igjen, like mye komme innenfra, fra entreprenørorienterte akademisk egne kommersielle ambisjoner, som utenfra, fra sponsorer og egen institusjon. Samtidig er det, igjen, ikke alltid og nødvendigvis et motsetningsforhold mellom akademisk og kommersielle hensyn, det oppstår først om de to hensyn ikke balanseres på måter som er akseptable fra akademisk synsvinkel.<sup>3</sup>

Denne koplingen mellom retter og plikter knyttet til akademisk frihet får en særlig relevans i forhold til den diskusjon som har vokst fram i sammenheng med diskusjonen om problematiske aspekter ved de innskrenkninger i publiseringspraksis som skyldes at forskere avstår fra å publisere, for eksempel ut fra hensynet til patentering, eller bare i den grad og på den måte som avtaler med sponsorer av forskningen gir adgang til. Spørsmålet er om også denne negative friheten kan sies å være beskyttet av den akademisk friheten, eller om for eksempel det bør være mulig å overstyre akademisk frihet, brukt på denne negative måten, til pålegge forskere publiseringsplikt i (enkelte) slike tilfeller. (Schmidt-

Assman, 2005). Dersom forskningsfriheten, herunder publiseringsretten, er forankret i, og skal beskytte, de grunnleggende akademiske verdier om åpenhet og kunnskap som allmenngode, så kan det reises spørsmål om friheten til å *unnlate* å publisere hører inn under, og bør være beskyttet, av den akademiske frihet. Under hvilke betingelser kan det, ut fra de verdier som ligger til grunn for akademiske frihets-normer (åpen tilgjengelighet, allmenne samfunnsinteresser), være legitimt å gripe inn i den individuelle forskers frihet, og kreve publisering i strid med vedkommendes eget ønske om å la kommersialiseringshensyn være utslagsgivende for publiseringsspørsmålet?

### *Læring*

Se over om studenter (s. 28 – 29).

### **3.3.2 Oppgaver nært knyttet til akademiske primæroppgaver**

Akademisk frihet (i den spesielle betydningen) gir i visse tolkninger også en begrunnelse for medvirkning og innflytelse på forhold som angår betingelsene for å utføre akademiske oppgaver: "Academic freedom is also the right to participate in those activities within the university which affect directly the performance of academic things" (Shils, 1997:156) I en slik avledning omfatter også akademisk frihet en rett til å delta i beslutningsprosesser som influerer på den enkeltes forskning og undervisning. Dette fører imidlertid umiddelbart over i spørsmål som gjelder styring og ledelse ved akademiske institusjoner, og drøftes ikke nærmere her.

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<sup>3</sup> Det er naturligvis her bare mulig å antyde noen av de mange problemstillinger i den enorme litteraturen om spenninger mellom ulike former for akademisk kommersialisering og tradisjonelle akademiske normer.

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## **Appendix - Erklæringer m.v. om akademisk frihet**

- American Association of University Professors (AAUP) 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments
- Recommendation concerning the Status of Higher-Education Teaching Personnel (UNESCO)
- The Magna Charta of European Universities (1988)
- UNESCO – CEPES; Declaration of Rights and Duties Inherent in Academic Freedom (Siena, 1982)
- The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics (1990).
- The Kampala Declaration on Intellectual Freedom and Social Responsibility (1990)

American Association of University Professors

## 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments

*In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges (now the Association of American Colleges and Universities) agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement is known to the profession as the 1940 Statement of Principles on Academic Freedom and Tenure.*

*The 1940 Statement is printed below, followed by Interpretive Comments as developed by representatives of the American Association of University Professors and the Association of American Colleges in 1969. The governing bodies of the two associations, meeting respectively in November 1989 and January 1990, adopted several changes in language in order to remove gender-specific references from the original text.*

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher<sup>1</sup> 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. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights. <sup>[1][2]</sup>

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

### **ACADEMIC FREEDOM**

- a. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
- b. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.<sup>[2]</sup> Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.<sup>[3]</sup>
- c. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect

for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.<sup>[4]</sup>

## ACADEMIC TENURE

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

1. The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.
2. Beginning with appointment to the rank of full-time instructor or a higher rank,<sup>[5]</sup> the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution, it may be agreed in writing that the new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years.<sup>[6]</sup> Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.<sup>[7]</sup>
3. During the probationary period a teacher should have the academic freedom that all other members of the faculty have.<sup>[8]</sup>
4. Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an advisor of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.<sup>[9]</sup>
5. Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

## 1940 INTERPRETATIONS

At the conference of representatives of the American Association of University Professors and of the Association of American Colleges on November 7–8, 1940, the following interpretations of the 1940 *Statement of Principles on Academic Freedom and Tenure* were agreed upon:

1. That its operation should not be retroactive.

2. That all tenure claims of teachers appointed prior to the endorsement should be determined in accordance with the principles set forth in the 1925 *Conference Statement on Academic Freedom and Tenure*.

3. If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph 4 of the section on Academic Tenure. In pressing such charges, the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

## **1970 INTERPRETIVE COMMENTS**

*Following extensive discussions on the 1940 Statement of Principles on Academic Freedom and Tenure with leading educational associations and with individual faculty members and administrators, a joint committee of the AAUP and the Association of American Colleges met during 1969 to reevaluate this key policy statement. On the basis of the comments received, and the discussions that ensued, the joint committee felt the preferable approach was to formulate interpretations of the Statement in terms of the experience gained in implementing and applying the Statement for over thirty years and of adapting it to current needs.*

*The committee submitted to the two associations for their consideration the following "Interpretive Comments." These interpretations were adopted by the Council of the American Association of University Professors in April 1970 and endorsed by the Fifty-sixth Annual Meeting as Association policy.*

In the thirty years since their promulgation, the principles of the 1940 *Statement of Principles on Academic Freedom and Tenure* have undergone a substantial amount of refinement. This has evolved through a variety of processes, including customary acceptance, understandings mutually arrived at between institutions and professors or their representatives, investigations and reports by the American Association of University Professors, and formulations of statements by that association either alone or in conjunction with the Association of American Colleges. These comments represent the attempt of the two associations, as the original sponsors of the 1940 *Statement*, to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 *Statement* is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 *Statement*; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment. As the Supreme Court said in *Keyishian v. Board of Regents*, 385 U.S. 589 (1967), "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

The numbers refer to the designated portion of the 1940 *Statement* on which interpretive comment is made.

1. The Association of American Colleges and the American Association of University Professors have long recognized that membership in the academic profession carries with it special

responsibilities. Both associations either separately or jointly have consistently affirmed these responsibilities in major policy statements, providing guidance to professors in their utterances as citizens, in the exercise of their responsibilities to the institution and to students, and in their conduct when resigning from their institution or when undertaking government-sponsored research. Of particular relevance is the [\*Statement on Professional Ethics\*](#), adopted in 1966 as Association policy. (A revision, adopted in 1987, may be found in AAUP, *Policy Documents and Reports*, 9th ed. [Washington, D.C., 2001], 133–34.)[Back to Text](#)

2. The intent of this statement is not to discourage what is "controversial." Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.[Back to Text](#)

3. Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not now endorse such a departure.[Back to Text](#)

4. This paragraph is the subject of an interpretation adopted by the sponsors of the 1940 *Statement* immediately following its endorsement which reads as follows:

If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph 4 of the section on Academic Tenure. In pressing such charges, the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

Paragraph (c) of the section on Academic Freedom in the 1940 *Statement* should also be interpreted in keeping with the 1964 "Committee A Statement on Extramural Utterances" (*Policy Documents and Reports*, 32), which states inter alia: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar."

Paragraph 5 of the *Statement on Professional Ethics* also deals with the nature of the "special obligations" of the teacher. The paragraph reads as follows:

As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of other obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary and the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities.[Back to Text](#)

5. The concept of "rank of full-time instructor or a higher rank" is intended to include any person who teaches a full-time load regardless of the teacher's specific title.\* [Back to Text](#)

6. In calling for an agreement "in writing" on the amount of credit given for a faculty member's prior service at other institutions, the *Statement* furthers the general policy of full understanding by the professor of the terms and conditions of the appointment. It does not necessarily follow that a professor's tenure rights have been violated because of the absence of a written agreement on this matter. Nonetheless, especially because of the variation in permissible institutional practices, a written understanding concerning these matters at the time of appointment is particularly appropriate and advantageous to both the individual and the institution.\*\* [Back to Text](#)

7. The effect of this subparagraph is that a decision on tenure, favorable or unfavorable, must be made at least twelve months prior to the completion of the probationary period. If the decision is negative, the appointment for the following year becomes a terminal one. If the decision is affirmative, the provisions in the 1940 *Statement* with respect to the termination of service of teachers or investigators after the expiration of a probationary period should apply from the date when the favorable decision is made.[Back to Text](#)

The general principle of notice contained in this paragraph is developed with greater specificity in the *Standards for Notice of Nonreappointment*, endorsed by the Fiftieth Annual Meeting of the American Association of University Professors (1964). These standards are:

Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

(a) *Not later than March 1 of the first academic year of service*, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

(b) *Not later than December 15 of the second academic year of service*, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.

(c) At least twelve months before the expiration of an appointment after two or more years in the institution.

Other obligations, both of institutions and of individuals, are described in the *Statement on Recruitment and Resignation of Faculty Members*, as endorsed by the Association of American Colleges and the American Association of University Professors in 1961.

8. The freedom of probationary teachers is enhanced by the establishment of a regular procedure for the periodic evaluation and assessment of the teacher's academic performance during probationary status. Provision should be made for regularized procedures for the consideration of complaints by probationary teachers that their academic freedom has been violated. One suggested procedure to serve these purposes is contained in the [\*Recommended Institutional Regulations on Academic Freedom and Tenure\*](#), prepared by the American Association of University Professors.[Back to Text](#)

9. A further specification of the academic due process to which the teacher is entitled under this paragraph is contained in the [\*Statement on Procedural Standards in Faculty Dismissal Proceedings\*](#), jointly approved by the American Association of University

Professors and the Association of American Colleges in 1958. This interpretive document deals with the issue of suspension, about which the 1940 *Statement* is silent.

The 1958 *Statement* provides: "Suspension of the faculty member during the proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Unless legal considerations forbid, any such suspension should be with pay." A suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.

The concept of "moral turpitude" identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.[Back to Text](#)

## Endnotes

1. The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.[Back to Text](#)

2. Boldface numbers in brackets refer to Interpretive Comments which follow.[Back to Text](#)

\* For a discussion of this question, see the "Report of the Special Committee on Academic Personnel Ineligible for Tenure," *Policy Documents and Reports*, 88–91.[Back to Text](#)

\*\* For a more detailed statement on this question, see "On Crediting Prior Service Elsewhere as Part of the Probationary Period," *ibid.*, 100–101.[Back to Text](#)

## ENDORSERS

[190 underskrifter]



## Recommendation concerning the Status of Higher-Education Teaching Personnel (UNESCO)

11 November 1997

### Preamble

**The General Conference** of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Paris from 21 October to 12 November 1997, at its 29th session, Conscious of the responsibility of states for the provision of education for all in fulfilment of Article 26 of the Universal Declaration of Human Rights (1948),

**Recalling** in particular the responsibility of the states for the provision of higher education in fulfilment of Article 13, paragraph 1(c), of the International Covenant on Economic, Social and Cultural Rights (1966),

**Conscious** that higher education and research are instrumental in the pursuit, advancement and transfer of knowledge and constitute an exceptionally rich cultural and scientific asset,

**Also conscious** that governments and important social groups, such as students, industry and labour, are vitally interested in and benefit from the services and outputs of the higher education systems,

**Recognizing** the decisive role of higher education teaching personnel in the advancement of higher education, and the importance of their contribution to the development of humanity and modern society,

**Convinced** that higher-education teaching personnel, like all other citizens, are expected to endeavour to enhance the observance in society of the cultural, economic, social, civil and political rights of all peoples,

**Aware** of the need to reshape higher education to meet social and economic changes and for higher education teaching personnel to participate in this process,

**Expressing concern** regarding the vulnerability of the academic community to untoward political pressures which could undermine academic freedom,

**Considering** that the right to education, teaching and research can only be fully enjoyed in an atmosphere of academic freedom and autonomy for institutions of higher education and that the open communication of findings, hypotheses and opinions lies at the very heart of higher education and provides the strongest guarantee of the accuracy and objectivity of scholarship and research,

**Concerned** to ensure that higher-education teaching personnel enjoy the status commensurate with this role, Recognizing the diversity of cultures in the world,

**Taking into account** the great diversity of the laws, regulations, practices and traditions which, in different countries, determine the patterns and organization of higher education,

**Mindful** of the diversity of arrangements which apply to higher-education teaching personnel in different countries, in particular according to whether the regulations concerning the public service apply to them,

**Convinced** nevertheless that similar questions arise in all countries with regard to the status of higher education teaching personnel and that these questions call for the adoption of common approaches and so far as practicable the application of common standards which it is the purpose of this Recommendation to set out,

**Bearing in mind** such instruments as the UNESCO Convention against Discrimination in Education (1960), which recognizes that UNESCO has a duty not only to proscribe any form of discrimination in education, but also to promote equality of opportunity and treatment for all in education at all levels, including the conditions under which it is given, as well as the Recommendation concerning the Status of Teachers (1966) and the UNESCO Recommendation on the Status of Scientific Researchers (1974), as well as the instruments of the International Labour Organization on freedom of association and the right to organize and to collective bargaining and on equality of opportunity and treatment,

**Desiring** to complement existing conventions, covenants and recommendations contained in international standards set out in the appendix with provisions relating to problems of particular concern to higher education institutions and their teaching and research personnel,

**Adopts** the present Recommendation on 11 November 1997

## **I. Definitions**

1. For the purpose of this Recommendation:

(a) 'higher education' means programmes of study, training or training for research at the post-secondary level provided by universities or other educational establishments that are approved as institutions of higher education by the competent state authorities, and/or through recognized accreditation systems;

(b) 'research', within the context of higher education, means original scientific, technological and engineering, medical, cultural, social and human science or educational research which implies careful, critical, disciplined inquiry, varying in technique and method according to the nature and conditions of the problems identified, directed towards the clarification and/or resolution of the problems, and when within an institutional framework, supported by an appropriate infrastructure;

(c) 'scholarship' means the processes by which higher-education teaching personnel keep up to date with their subject, engage in scholarly editing, disseminate their work and improve their pedagogical skills as teachers in their discipline and upgrade their academic credentials;

(d) 'extension work' means a service by which the resources of an educational institution are extended beyond its confines to serve a widely diversified community within the state or region regarded as the constituent area of the institution, so long as this work does not contradict the mission of the institution. In teaching it may include a wide range of activities such as extramural, lifelong and distance education delivered through evening classes, short courses, seminars and institutes. In research it may lead to the provision of expertise to the public, private and non-profit sectors, various types of consultation, and participation in applied research and in implementing research results;

(e) 'institutions of higher education' means universities, other educational establishments, centres and structures of higher education, and centres of research and culture associated with any of the above, public or private, that are approved as such either through recognized accreditation systems or by the competent state authorities;

(f) 'higher-education teaching personnel' means all those persons in institutions or programmes of higher education who are engaged to teach and/or to undertake scholarship and/or to undertake research and/or to provide educational services to students or to the community at large.

## **II. Scope**

2. This Recommendation applies to all higher education teaching personnel.

## **III. Guiding principles**

3. The global objectives of international peace, understanding, co-operation and sustainable development pursued by each Member State and by the United Nations require, inter alia, education for peace and in the culture of peace, as defined by UNESCO, as well as qualified and cultivated graduates of higher education institutions, capable of serving the community as responsible citizens and undertaking effective scholarship and advanced research and, as a consequence, a corps of talented and highly qualified higher-education teaching personnel.

4. Institutions of higher education, and more particularly universities, are communities of scholars preserving, disseminating and expressing freely their opinions on traditional knowledge and culture, and pursuing new knowledge without constriction by prescribed doctrines. The pursuit of new knowledge and its application lie at the heart of the mandate of such institutions of higher education. In higher education institutions where original research is not required, higher-education teaching personnel should maintain and develop knowledge of their subject through scholarship and improved pedagogical skills.

5. Advances in higher education, scholarship and research depend largely on infrastructure and resources, both human and material, and on the qualifications and expertise of higher-education teaching personnel as well as on their human, pedagogical and technical qualities, underpinned by academic freedom, professional responsibility, collegiality and institutional autonomy.

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

research.

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

8. Organizations which represent higher-education teaching personnel should be considered and recognized as a force which can contribute greatly to educational advancement and which should, therefore, be involved, together with other stakeholders and interested parties, in the determination of higher education policy.

9. Respect should be shown for the diversity of higher education institution systems in each Member State in accordance with its national laws and practices as well as with international standards.

#### **IV. Educational objectives and policies**

10. At all appropriate stages of their national planning in general, and of their planning for higher education in particular, Member States should take all necessary measures to ensure that:

(a) higher education is directed to human development and to the progress of society;

(b) higher education contributes to the achievement of the goals of lifelong learning and to the development of other forms and levels of education;

(c) where public funds are appropriated for higher education institutions, such funds are treated as a public investment, subject to effective public accountability;

(d) the funding of higher education is treated as a form of public investment the returns on which are, for the most part, necessarily long term, subject to government and public priorities;

(e) the justification for public funding is held constantly before public opinion.

11. Higher-education teaching personnel should have access to libraries which have up-to-date collections reflecting diverse sides of an issue, and whose holdings are not subject to censorship or other forms of intellectual interference. They should also have access, without censorship, to international computer systems, satellite programmes and databases required for their teaching, scholarship or research.

12. The publication and dissemination of the research results obtained by higher-education teaching personnel should be encouraged and facilitated with a view to assisting them to acquire the reputation which they merit, as well as with a view to promoting the advancement of science, technology, education and culture generally. To this end, higher-education teaching personnel should be free to publish the results of research and scholarship in books, journals and databases of their own choice and under their own names, provided they are the authors or co-authors of the above scholarly works. The intellectual property of higher-education teaching personnel should benefit from appropriate legal protection, and in particular the protection afforded by national and international copyright law.

13. The interplay of ideas and information among higher-education teaching personnel throughout the world is vital to the healthy development of higher education and research and should be actively promoted. To this end higher-education teaching personnel should be enabled throughout their careers to participate in international gatherings on higher education or research, to travel abroad without political restrictions and to use the Internet or video-conferencing for these purposes.

14. Programmes providing for the broadest exchange of higher-education teaching personnel between institutions, both nationally and internationally, including the organization of symposia, seminars and collaborative projects, and the exchange of educational and scholarly information should be developed and encouraged. The extension of communications and direct contacts between universities, research institutions and associations as well as among scientists and research workers should be facilitated, as should access by higher education teaching personnel from other states to open information material in public archives, libraries, research institutes and similar bodies.

15. Member States and higher education institutions should, nevertheless, be conscious of the exodus of higher-education teaching personnel from the developing countries and, in particular, the least developed ones. They should, therefore, encourage aid programmes to help sustain an academic environment which offers satisfactory conditions of work for higher-education teaching personnel in those countries, so that this exodus may be contained and ultimately reversed.

16. Fair, just and reasonable national policies and practices for the recognition of degrees and of credentials for the

practice of the higher education profession from other states should be established that are consistent with the UNESCO Recommendation on the Recognition of Studies and Qualifications in Higher Education of 1993.

## **V. Institutional rights, duties and responsibilities**

### **A. Institutional autonomy**

17. The proper enjoyment of academic freedom and compliance with the duties and responsibilities listed below require the autonomy of institutions of higher education. Autonomy is that degree of self-governance necessary for effective decision making by institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights. However, the nature of institutional autonomy may differ according to the type of establishment involved.

18. Autonomy is 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.

19. Member States are under an obligation to protect higher education institutions from threats to their autonomy coming from any source.

20. Autonomy should not be used by higher education institutions as a pretext to limit the rights of higher-education teaching personnel provided for in this Recommendation or in other international standards set out in the appendix.

21. Self-governance, collegiality and appropriate academic leadership are essential components of meaningful autonomy for institutions of higher education.

### **B. Institutional accountability**

22. In view of the substantial financial investments made, Member States and higher education institutions should ensure a proper balance between the level of autonomy enjoyed by higher education institutions and their systems of accountability. Higher education institutions should endeavour to open their governance in order to be accountable. They should be accountable for:

(a) effective communication to the public concerning the nature of their educational mission;

(b) a commitment to quality and excellence in their teaching, scholarship and research functions, and an obligation to protect and ensure the integrity of their teaching, scholarship and research against intrusions inconsistent with their academic missions;

(c) effective support of academic freedom and fundamental human rights;

(d) ensuring high quality education for as many academically qualified individuals as possible subject to the constraints of the resources available to them;

(e) a commitment to the provision of opportunities for lifelong learning, consistent with the mission of the institution and the resources provided;

(f) ensuring that students are treated fairly and justly, and without discrimination;

(g) adopting policies and procedures to ensure the equitable treatment of women and minorities and to eliminate sexual and racial harassment;

(h) ensuring that higher education personnel are not impeded in their work in the classroom or in their research capacity by violence, intimidation or harassment;

(i) honest and open accounting;

(j) efficient use of resources;

(k) the creation, through the collegial process and/or through negotiation with organizations representing higher-education teaching personnel, consistent with the principles of academic freedom and freedom of speech, of statements or codes of ethics to guide higher education personnel in their teaching, scholarship, research and extension work;

(l) assistance in the fulfilment of economic, social, cultural and political rights while striving to prevent the use of knowledge, science and technology to the detriment of those rights, or for purposes which run counter to generally accepted academic ethics, human rights and peace;

(m) ensuring that they address themselves to the contemporary problems facing society; to this end, their curricula, as well as their activities, should respond, where appropriate, to the current and future needs of the local community and of society at large, and they should play an important role in enhancing the labour market opportunities of their graduates;

(n) encouraging, where possible and appropriate, international academic co-operation which transcends national, regional, political, ethnic and other barriers, striving to prevent the scientific and technological exploitation of one state by another, and promoting equal partnership of all the academic communities of the world in the pursuit and use of knowledge and the preservation of cultural heritages;

(o) ensuring up-to-date libraries and access, without censorship, to modern teaching, research and information resources providing information required by higher-education teaching personnel or by students for teaching, scholarship or research;

(p) ensuring the facilities and equipment necessary for the mission of the institution and their proper upkeep;

(q) ensuring that when engaged in classified research it will not contradict the educational mission and objectives of the institutions and will not run counter to the general objectives of peace, human rights, sustainable development and environment.

23. Systems of institutional accountability should be based on a scientific methodology and be clear, realistic, cost-effective and simple. In their operation they should be fair, just and equitable. Both the methodology and the results should be open.

24. Higher education institutions, individually or collectively, should design and implement appropriate systems of accountability, including quality assurance mechanisms to achieve the above goals, without harming institutional autonomy or academic freedom. The organizations representing higher-education teaching personnel should participate, where possible, in the planning of such systems. Where statemandated structures of accountability are established, their procedures should be negotiated, where applicable, with the institutions of higher education concerned and with the organizations representing higher-education teaching personnel.

## **VI. Rights and freedoms of higher-education teaching personnel**

### **A. Individual rights and freedoms: civil rights, academic freedom, publication rights, and the international exchange of information**

25. Access to the higher education academic profession should be based solely on appropriate academic qualifications, competence and experience and be equal for all members of society without any discrimination.

26. Higher-education teaching personnel, like all other groups and individuals, should enjoy those internationally recognized civil, political, social and cultural rights applicable to all citizens. Therefore, all higher-education teaching personnel should enjoy freedom of thought, conscience, religion, expression, assembly and association as well as the right to liberty and security of the person and liberty of movement. They should not be hindered or impeded in exercising their civil rights as citizens, including the right to contribute to social change through freely expressing their opinion of state policies and of policies affecting higher education. They should not suffer any penalties simply because of the exercise of such rights. Higher-education teaching personnel should not be subject to arbitrary arrest or detention, nor to torture, nor to cruel, inhuman or degrading treatment. In cases of gross violation of their rights, higher-education teaching personnel should have the right to appeal to the relevant national, regional or international bodies such as the agencies of the United Nations, and organizations representing higher-education teaching personnel should extend full support in such cases.

27. The maintaining of the above international standards should be upheld in the interest of higher education internationally and within the country. To do so, the principle of academic freedom should be scrupulously observed. Higher-education teaching personnel are entitled to the maintaining of academic freedom, that is to say, 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. All higher-education teaching personnel should have the right to fulfil their functions without discrimination of any kind and without fear of repression by the state or any other source. Higher-education teaching personnel can effectively do justice to this principle if the environment in which they operate is conducive, which requires a democratic atmosphere; hence the challenge for all of developing a

democratic society.

28. Higher-education teaching personnel have the right to teach without any interference, subject to accepted professional principles including professional responsibility and intellectual rigour with regard to standards and methods of teaching. Higher-education teaching personnel should not be forced to instruct against their own best knowledge and conscience or be forced to use curricula and methods contrary to national and international human rights standards. Higher education teaching personnel should play a significant role in determining the curriculum.

29. Higher-education teaching personnel have a right to carry out research work without any interference, or any suppression, in accordance with their professional responsibility and subject to nationally and internationally recognized professional principles of intellectual rigour, scientific inquiry and research ethics. They should also have the right to publish and communicate the conclusions of the research of which they are authors or co-authors, as stated in paragraph 12 of this Recommendation.

30. Higher-education teaching personnel have a right to undertake professional activities outside of their employment, particularly those that enhance their professional skills or allow for the application of knowledge to the problems of the community, provided such activities do not interfere with their primary commitments to their home institutions in accordance with institutional policies and regulations or national laws and practice where they exist.

### **B. Self-governance and collegiality**

31. Higher-education teaching personnel should have the right and opportunity, without discrimination of any kind, according to their abilities, to take part in the governing bodies and to criticize the functioning of higher education institutions, including their own, while respecting the right of other sections of the academic community to participate, and they should also have the right to elect a majority of representatives to academic bodies within the higher education institution.

32. The principles of collegiality include academic freedom, shared responsibility, the policy of participation of all concerned in internal decision making structures and practices, and the development of consultative mechanisms. Collegial decision-making should encompass decisions regarding the administration and determination of policies of higher education, curricula, research, extension work, the allocation of resources and other related activities, in order to improve academic excellence and quality for the benefit of society at large.

### **VII. Duties and responsibilities of higher education teaching personnel**

33. Higher-education teaching personnel should recognize that the exercise of rights carries with it special duties and responsibilities, including the obligation to respect the academic freedom of other members of the academic community and to ensure the fair discussion of contrary views. Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research on an honest search for truth. Teaching, research and scholarship should be conducted in full accordance with ethical and professional standards and should, where appropriate, respond to contemporary problems facing society as well as preserve the historical and cultural heritage of the world.

34. In particular, the individual duties of higher education teaching personnel inherent in their academic freedom are:

(a) to teach students effectively within the means provided by the institution and the state, to be fair and equitable to male and female students and treat those of all races and religions, as well as those with disabilities, equally, to encourage the free exchange of ideas between themselves and their students, and to be available to them for guidance in their studies. Higher-education teaching personnel should ensure, where necessary, that the minimum content defined in the syllabus for each subject is covered;

(b) to conduct scholarly research and to disseminate the results of such research or, where original research is not required, to maintain and develop their knowledge of their subject through study and research, and through the development of teaching methodology to improve their pedagogical skills;

(c) to base their research and scholarship on an honest search for knowledge with due respect for evidence, impartial reasoning and honesty in reporting;

(d) to observe the ethics of research involving humans, animals, the heritage or the environment;

(e) to respect and to acknowledge the scholarly work of academic colleagues and students and, in particular, to ensure that authorship of published works includes all who have materially contributed to, and share responsibility for, the contents of a publication;

(f) to refrain from using new information, concepts or data that were originally obtained as a result of access to confidential manuscripts or applications for funds for research or training that may have been seen as the result of processes such as peer review, unless the author has given permission;

(g) to ensure that research is conducted according to the laws and regulations of the state in which the research is carried out, that it does not violate international codes of human rights, and that the results of the research and the data on which it is based are effectively made available to scholars and researchers in the host institution, except where this might place respondents in peril or where anonymity has been guaranteed;

(h) to avoid conflicts of interest and to resolve them through appropriate disclosure and full consultation with the higher education institution employing them, so that they have the approval of the aforesaid institution;

(i) to handle honestly all funds entrusted to their care for higher education institutions for research or for other professional or scientific bodies;

(j) to be fair and impartial when presenting a professional appraisal of academic colleagues and students;

(k) to be conscious of a responsibility, when speaking or writing outside scholarly channels on matters which are not related to their professional expertise, to avoid misleading the public on the nature of their professional expertise;

(l) to undertake such appropriate duties as are required for the collegial governance of institutions of higher education and of professional bodies.

35. Higher-education teaching personnel should seek to achieve the highest possible standards in their professional work, since their status largely depends on themselves and the quality of their achievements.

36. Higher-education teaching personnel should contribute to the public accountability of higher education institutions without, however, forfeiting the degree of institutional autonomy necessary for their work, for their professional freedom and for the advancement of knowledge.

### **VIII. Preparation for the profession**

37. Policies governing access to preparation for a career in higher education rest on the need to provide society with an adequate supply of higher-education teaching personnel who possess the necessary ethical, intellectual and teaching qualities and who have the required professional knowledge and skills.

38. All aspects of the preparation of higher-education teaching personnel should be free from any form of discrimination.

39. Amongst candidates seeking to prepare for a career in higher education, women and members of minorities with equal academic qualifications and experience should be given equal opportunities and treatment.

### **IX. Terms and conditions of employment**

#### **A. Entry into the academic profession**

40. The employers of higher-education teaching personnel should establish such terms and conditions of employment as will be most conducive for effective teaching and/or research and/or scholarship and/or extension work and will be fair and free from discrimination of any kind.

41. Temporary measures aimed at accelerating de facto equality for disadvantaged members of the academic community should not be considered discriminatory, provided that these measures are discontinued when the objectives of equality of opportunity and treatment have been achieved and systems are in place to ensure the continuance of equality of opportunity and treatment.

42. A probationary period on initial entry to teaching and research in higher education is recognized as the opportunity for the encouragement and helpful initiation of the entrant and for the establishment and maintenance of proper professional standards, as well as for the individual's own development of his/her teaching and research proficiency. The normal duration of probation should be known in advance and the conditions for its satisfactory completion should be strictly related to professional competence. If such candidates fail to complete their probation satisfactorily, they should have the right to know the reasons and to receive this information sufficiently in advance of the end of the probationary period to give them a reasonable opportunity to improve their performance. They should also have the right to appeal.

43. Higher-education teaching personnel should enjoy:

(a) a just and open system of career development including fair procedures for appointment, tenure where applicable, promotion, dismissal, and other related matters;

(b) an effective, fair and just system of labour relations within the institution, consistent with the international standards set out in the appendix.

44. There should be provisions to allow for solidarity with other institutions of higher education and with their higher-education teaching personnel when they are subject to persecution. Such solidarity may be material as well as moral and should, where possible, include refuge and employment or education for victims of persecution.

### **B. Security of employment**

45. Tenure or its functional equivalent, where applicable, constitutes one of the major procedural safeguards of academic freedom and against arbitrary decisions. It also encourages individual responsibility and the retention of talented higher-education teaching personnel.

46. Security of employment in the profession, including tenure or its functional equivalent, where applicable, should be safeguarded as it is essential to the interests of higher education as well as those of higher-education teaching personnel. It ensures that higher-education teaching personnel who secure continuing employment following rigorous evaluation can only be dismissed on professional grounds and in accordance with due process. They may also be released for bona fide financial reasons, provided that all the financial accounts are open to public inspection, that the institution has taken all reasonable alternative steps to prevent termination of employment, and that there are legal safeguards against bias in any termination of employment procedure. Tenure or its functional equivalent, where applicable, should be safeguarded as far as possible even when changes in the organization of or within a higher education institution or system are made, and should be granted, after a reasonable period of probation, to those who meet stated objective criteria in teaching, and/or scholarship, and/or research to the satisfaction of an academic body, and/or extension work to the satisfaction of the institution of higher education.

### **C. Appraisal**

47. Higher education institutions should ensure that:

(a) evaluation and assessment of the work of higher-education teaching personnel are an integral part of the teaching, learning and research process, and that their major function is the development of individuals in accordance with their interests and capacities;

(b) evaluation is based only on academic criteria of competence in research, teaching and other academic or professional duties as interpreted by academic peers;

(c) evaluation procedures take due account of the difficulty inherent in measuring personal capacity, which seldom manifests itself in a constant and unfluctuating manner;

(d) where evaluation involves any kind of direct assessment of the work of higher-education teaching personnel, by students and/or fellow colleagues and/or administrators, such assessment is objective and the criteria and the results are made known to the individual(s) concerned;

(e) the results of appraisal of higher-education teaching personnel are also taken into account when establishing the staffing of the institution and considering the renewal of employment;

(f) higher-education teaching personnel have the right to appeal to an impartial body against assessments which they deem to be unjustified.

### **D. Discipline and dismissal**

48. No member of the academic community should be subject to discipline, including dismissal, except for just and sufficient cause demonstrable before an independent third-party hearing of peers, and/or before an impartial body such as arbitrators or the courts.

49. All members of higher-education teaching personnel should enjoy equitable safeguards at each stage of any disciplinary procedure, including dismissal, in accordance with the international standards set out in the appendix.



50. Dismissal as a disciplinary measure should only be for just and sufficient cause related to professional conduct, for example: persistent neglect of duties, gross incompetence, fabrication or falsification of research results, serious financial irregularities, sexual or other misconduct with students, colleagues, or other members of the academic community or serious threats thereof, or corruption of the educational process such as by falsifying grades, diplomas or degrees in return for money, sexual or other favours or by demanding sexual, financial or other material favours from subordinate employees or colleagues in return for continuing employment.

51. Individuals should have the right to appeal against the decision to dismiss them before independent, external bodies such as arbitrators or the courts, with final and binding powers.

#### **E. Negotiation of terms and conditions of employment**

52. Higher-education teaching personnel should enjoy the right to freedom of association, and this right should be effectively promoted. Collective bargaining or an equivalent procedure should be promoted in accordance with the standards of the International Labour Organization (ILO) set out in the appendix.

53. Salaries, working conditions and all matters related to the terms and conditions of employment of higher-education teaching personnel should be determined through a voluntary process of negotiation between organizations representing higher-education teaching personnel and the employers of higher education teaching personnel, except where other equivalent procedures are provided that are consistent with international standards.

54. Appropriate machinery, consistent with national laws and international standards, should be established by statute or by agreement whereby the right of higher-education teaching personnel to negotiate through their organizations with their employers, whether public or private, is assured. Such legal and statutory rights should be enforceable through an impartial process without undue delay.

55. If the process established for these purposes is exhausted or if there is a breakdown in negotiations between the parties, organizations of higher-education teaching personnel should have the right to take such other steps as are normally open to other organizations in the defence of their legitimate interests.

56. Higher-education teaching personnel should have access to a fair grievance and arbitration procedure, or the equivalent, for the settlement of disputes with their employers arising out of terms and conditions of employment.

#### **F. Salaries, workload, social security benefits, health and safety**

57. All financially feasible measures should be taken to provide higher-education teaching personnel with remuneration such that they can devote themselves satisfactorily to their duties and allocate the necessary amount of time for the continuing training and periodic renewal of knowledge and skills that are essential at this level of teaching.

58. The salaries of higher-education teaching personnel should:

(a) reflect the importance to society of higher education and hence the importance of higher-education teaching personnel as well as the different responsibilities which fall to them from the time of their entry into the profession;

(b) be at least comparable to salaries paid in other occupations requiring similar or equivalent qualifications;

(c) provide higher-education teaching personnel with the means to ensure a reasonable standard of living for themselves and their families, as well as to invest in further education or in the pursuit of cultural or scientific activities, thus enhancing their professional qualifications;

(d) take account of the fact that certain posts require higher qualifications and experience and carry greater responsibilities;

(e) be paid regularly and on time;

(f) be reviewed periodically to take into account such factors as a rise in the cost of living, increased productivity leading to higher standards of living, or a general upward movement in wage or salary levels.

59. Salary differentials should be based on objective criteria.

60. Higher-education teaching personnel should be paid on the basis of salary scales established in agreement with organizations representing higher-education teaching personnel, except where other equivalent procedures consistent with international standards are provided. During a probationary period or if employed on a temporary basis qualified higher-education teaching personnel should not be paid on a lower scale than that laid down for

established higher education teaching personnel at the same level.

61. A fair and impartial merit-rating system could be a means of enhancing quality assurance and quality control. Where introduced and applied for purposes of salary determination it should involve prior consultation with organizations representing higher-education teaching personnel.

62. The workload of higher-education teaching personnel should be fair and equitable, should permit such personnel to carry out effectively their duties and responsibilities to their students as well as their obligations in regard to scholarship, research and/or academic administration, should provide due consideration in terms of salary for those who are required to teach beyond their regular workload, and should be negotiated with the organizations representing higher-education teaching personnel, except where other equivalent procedures consistent with international standards are provided.

63. Higher-education teaching personnel should be provided with a work environment that does not have a negative impact on or affect their health and safety and they should be protected by social security measures, including those concerning sickness and disability and pension entitlements, and measures for the protection of health and safety in respect of all contingencies included in the conventions and recommendations of ILO. The standards should be at least as favourable as those set out in the relevant conventions and recommendations of ILO. Social security benefits for higher-education teaching personnel should be granted as a matter of right.

64. The pension rights earned by higher-education teaching personnel should be transferable nationally and internationally, subject to national, bilateral and multilateral taxation laws and agreements, should the individual transfer to employment with another institution of higher education. Organizations representing higher education teaching personnel should have the right to choose representatives to take part in the governance and administration of pension plans designed for higher-education teaching personnel where applicable, particularly those which are private and contributory.

#### **G. Study and research leave and annual holidays**

65. Higher-education teaching personnel should be granted study and research leave, such as sabbatical leave, on full or partial pay, where applicable, at regular intervals.

66. The period of study or research leave should be counted as service for seniority and pension purposes, subject to the provisions of the pension plan.

67. Higher-education teaching personnel should be granted occasional leave with full or partial pay to enable them to participate in professional activities.

68. Leave granted to higher-education teaching personnel within the framework of bilateral and multilateral cultural and scientific exchanges or technical assistance programmes abroad should be considered as service, and their seniority and eligibility for promotion and pension rights in their home institutions should be safeguarded. In addition, special arrangements should be made to cover their extra expenses.

69. Higher-education teaching personnel should enjoy the right to adequate annual vacation with full pay.

#### **H. Terms and conditions of employment of women higher-education teaching personnel**

70. All necessary measures should be taken to promote equality of opportunity and treatment of women higher-education teaching personnel in order to ensure, on the basis of equality between men and women, the rights recognized by the international standards set out in the appendix.

#### **I. Terms and conditions of employment of disabled higher-education teaching personnel**

71. All necessary measures should be taken to ensure that the standards set with regard to the conditions of work of higher-education teaching personnel who are disabled are, as a minimum, consistent with the relevant provisions of the international standards set out in the appendix.

#### **J. Terms and conditions of employment of part-time higher-education teaching personnel**

72. The value of the service provided by qualified part-time higher-education teaching personnel should be recognized. Higher-education teaching personnel employed regularly on a part-time basis should:

(a) receive proportionately the same remuneration as higher-education teaching personnel employed on a full-time basis and enjoy equivalent basic conditions of employment;

(b) benefit from conditions equivalent to those of higher-education teaching personnel employed on a full-time basis as regards holidays with pay, sick leave and maternity leave; the relevant pecuniary entitlements should be determined in proportion to hours of work or earnings;

(c) be entitled to adequate and appropriate social security protection, including, where applicable, coverage under employers' pension schemes.

#### **X. Utilization and implementation**

73. Member States and higher education institutions should take all feasible steps to extend and complement their own action in respect of the status of higher-education teaching personnel by encouraging co-operation with and among all national and international governmental and nongovernmental organizations whose activities fall within the scope and objectives of this Recommendation.

74. Member States and higher education institutions should take all feasible steps to apply the provisions spelled out above to give effect, within their respective territories, to the principles set forth in this Recommendation.

75. The Director-General will prepare a comprehensive report on the world situation with regard to academic freedom and to respect for the human rights of higher-education teaching personnel on the basis of the information supplied by Member States and of any other information supported by reliable evidence which he/she may have gathered by such methods as he/she may deem appropriate.

76. In the case of a higher education institution in the territory of a state not under the direct or indirect authority of that state but under separate and independent authorities, the relevant authorities should transmit the text of this Recommendation to institutions, so that such institutions can put its provisions into practice.

#### **XI. Final provision**

77. Where higher-education teaching personnel enjoy a status which is, in certain respects, more favourable than that provided for in this Recommendation, the terms of this Recommendation should not be invoked to diminish the status already recognized.

#### **Appendix**

##### **United Nations**

- Universal Declaration of Human Rights, 1948;
- Declaration concerning the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples, 1965;
- International Convention on the Elimination of All Forms of Racial Discrimination, 1965;
- International Covenant on Economic, Social and Cultural Rights, 1966;
- International Covenant on Civil and Political Rights and Protocol thereto, 1966;
- Declaration on the Protection of All Persons from Being Subject to Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment, 1975;
- Declaration on the Rights of Disabled Persons, 1975;
- Convention on the Elimination of All Forms of Discrimination against Women, 1979;
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981;
- Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, 1984.

##### **United Nations Educational, Scientific and Cultural Organization**

- Convention against Discrimination in Education, 1960, and Protocol thereto, 1962;
- Recommendation against Discrimination in Education, 1960;
- Recommendation on Education for International Understanding and Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms, 1974;
- Recommendation on the Status of Scientific Researchers, 1974;
- Revised Recommendation concerning Technical and Vocational Education, 1974;
- Declaration on Race and Racial Prejudice, 1978;
- Convention on Technical/Vocational Education, 1989;
- Recommendation on the Recognition of Studies and Qualifications in Higher Education, 1993.

##### **International Labour Organization**

- Convention No. 87: Freedom of Association and Protection of the Right to Organize Convention, 1948;

- Convention No. 95: Protection of Wages Convention, 1949;
- Convention No. 98: Right to Organize and Collective Bargaining Convention, 1949;
- Convention No. 100: Equal Remuneration Convention, 1951;
- Convention No. 102: Social Security (Minimum Standards) Convention, 1952;
- Convention No. 103: Maternity Protection Convention (Revised), 1952;
- Recommendation No. 95: Maternity Protection Recommendation, 1952;
- Convention No. 111: Discrimination (Employment and Occupation) Convention, 1958;
- Convention No. 118: Equality of Treatment (Social Security) Convention, 1962;
- Convention No. 121: Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980];
- Convention No. 128: Invalidity, Old-Age and Survivors Benefit Convention, 1967;
- Recommendation No. 131: Invalidity, Old-Age and Survivors Benefit Recommendation, 1967;
- Convention No. 130: Medical Care and Sickness Benefit Convention, 1969;
- Convention No. 132: Holidays with Pay Convention (Revised), 1970;
- Convention No. 135: Workers' Representatives Convention, 1971;
- Recommendation No. 143: Workers' Representatives Recommendation, 1971;
- Convention No. 140: Paid Educational Leave Convention, 1974;
- Recommendation No. 148: Paid Educational Leave Recommendation, 1974;
- Convention No. 151: Labour Relations (Public Service Convention), 1978;
- Recommendation No. 159: Labour Relations (Public Service) Recommendation, 1978;
- Recommendation No. 162: Older Workers Recommendation, 1980;
- Convention No. 154: Collective Bargaining Convention, 1981;
- Recommendation No. 163: Collective Bargaining Recommendation, 1981;
- Convention No. 156: Workers with Family Responsibilities Convention, 1981;
- Recommendation No. 165: Workers with Family Responsibilities Recommendation, 1981;
- Convention No. 158: Termination of Employment Convention, 1982;
- Convention No. 159: Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983;
- Recommendation No. 168: Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983.

#### **Other**

- Recommendation concerning the Status of Teachers adopted by the Special Intergovernmental Conference on the Status of Teachers (convened by UNESCO in cooperation with ILO), Paris, 5 October 1966;
- UNESCO, Universal Copyright Convention, 1952, revised 1971;
- World Intellectual Property Organization, Berne Convention for the Protection of Literary and Artistic Works, Paris Act, 1971, amended in 1979.

## **The Magna Charta of European Universities**

(Bologna, 18 September 1988)

### **Preamble**

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 peoples 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.

The undersigned Rectors of European Universities proclaim to all States and to the conscience of all nations the fundamental principles which must, now and always, support the vocation of universities.

### **Fundamental Principles**

1. The university is an autonomous institution at the heart of societies differently organized 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.
2. Teaching and research in universities must be inseparable if their tuition is not to lag behind changing needs, the demands of society, and advances in scientific knowledge.
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 students entitled, able and willing to enrich their minds with that knowledge.
4. A university is the trustee of the European humanist tradition; its constant care is to attain universal knowledge; to fulfil its vocation, it transcends geographical and

political frontiers, and affirms the vital need for different cultures to know and [to] influence each other.

### **The Means**

To attain these goals by following such principles calls for effective means, suitable to present conditions.

1. To preserve freedom in research and teaching, the instruments appropriate to realize that freedom must be made available to all members of the university community.
2. Recruitment of teachers, and regulation of their status, must obey the principle that research is inseparable from teaching.
3. Each university must -with due allowance for particular circumstances - ensure that its students' freedoms are safeguarded, and that they enjoy conditions in which they can acquire the culture and training which it is their purpose to possess.
4. Universities - particularly in Europe - regard the mutual exchange of information and documentation, and frequent joint projects for the advancement of learning, as essential to the steady progress of knowledge. Therefore, as in the earliest years of their history, they encourage mobility among teachers and students; furthermore, they consider a general policy of equivalent status, titles, examinations (without prejudice to national diplomas), and award of scholarships essential to the fulfillment of their mission in the conditions prevailing today.

The undersigned Rectors, on behalf of their Universities, undertake to do everything in their power to encourage each State, as well as the supranational organizations concerned, to mould their policy sedulously on this Magna Charta, which expresses the universities' unanimous desire freely determined and declared.

## **UENESCO - CEPES**

### **Declaration of Rights and Duties Inherent in Academic Freedom**

(Siena, 1982)

#### **1. Preamble**

The past few decades have seen, throughout the world, a new emphasis on the growth and development of higher education. This has been brought about by a number of factors: the recognition of the relationship between economic development and educational provision; the growing demand for equality of educational opportunity; the need to adapt institutions to the needs and aspirations of modern societies. These changes are welcome but they have brought with them some dangers for principles and values essential to the idea of a free university. In particular, the growing financial dependence of the university, at a time of economic difficulty, has led to pressures on the university in the exercise of the fundamental principles of university autonomy and academic freedom. It is appropriate, therefore, to restate today the essential role which academic freedom plays in the definition of the university.

#### **2. The Role of the University**

2.1. The university is a community bound together by a common commitment to the advancement of knowledge and the pursuit of truth. Central to the definition of the university are its functions of maintaining and transmitting the high culture of the community and of creating new knowledge through scholarship and basic scientific research.

2.2. The university, therefore, exists for purposes which require a high degree of freedom if they are to be adequately fulfilled. It is at one and at the same time an institution which exists to enlarge the frontiers of knowledge, and an institution which must hand down, not only the body of knowledge existing any time, but also those attitudes of mind which will make possible the enlargement of knowledge and the critical examination of beliefs and theories so that they may develop as society itself develops. It is vital for a free society that there should be within it such a free institution, committed to seek and know the truth and bound to no ideology, vested interest, party, or government.

#### **3. Conditions for Freedom in a University**

3.1. The conditions necessary to ensure freedom in the university are university autonomy and academic freedom. University autonomy requires the independence of the university from external constraints in the performance of its functions. Academic freedom signifies the maintenance of those conditions which make it possible for the members of the university to accomplish their functions without discrimination or fear of reprisal from any authority or interest, external or internal, to the university.

#### **4. Rights Inherent in Academic Freedom**

4.1. A university staff member must be free to teach and to express the conclusions of research, subject only to canons of scholarship and intellectual rigour. Equally, the staff member must be allowed to pursue and publish research, even if the conclusions of that research should prove unwelcome to outside authorities or interests.

4.2. The academic must hold employment under a system of tenure which is granted after a reasonable period of probation to those who have satisfied stated criteria in teaching and

research to the satisfaction of an academic body. The dismissal of an academic staff member with tenure or during a probationary period should not take place without the establishment of adequate cause through formal academic due process procedures.

4.3. Evaluation and promotion within the academic community should be based only on academic criteria in research, teaching, and other academic duties as interpreted by academic peers.

4.4. The academic must be given adequate time to carry out research into his or her subject, and reasonable access to the resources that are available to his or her institution for research and the publication of the results of research.

4.5. There must be freedom for the academic to travel and otherwise to consult with the international community of Scholars in his or her subject.

4.6. The university teacher must be free to teach students who are free to learn and to establish the content of courses and the method of teaching, subject to the requirements of an institutional curriculum.

4.7. The academic must be subject to no constraints from within the university in speaking responsibly on any subject, within or without the university.

## **5. Duties inherent in Academic Freedom**

5.1. There is a responsibility to the academic's subject or professional discipline, to assist in continuing its development through scholarly research activity and the publication of the results of such research in scholarly journals.

5.2. There is a responsibility to respect and to acknowledge the scholarly work of academic colleagues.

5.3. There is a responsibility to students, to teach them effectively and to be available to them for guidance in their studies.

5.4. There is a responsibility to undertake such duties as are required in the government of the university and of professional bodies.

5.5. In speaking outside scholarly channels on matters which are not related to his or her professional expertise, the academic should be conscious of a responsibility to avoid misleading the public mind on the nature of his or her professional knowledge.

5.6. The academic must always respect the primacy of his or her professional duties.

## **6. The Defense of Academic Freedom**

6.1. We believe that the principle of academic freedom outlined above is central to the concept of a free university in a free society. As such it is the proper concern, not just of university teachers and research workers, but also of those entrusted with the government of universities, as well as of state educational authorities.

Academic freedom has always been under threat from forces both within and without the universities. This is as true today as at any time in history. Accordingly, we pledge ourselves to defend academic freedom in areas where it is attacked and to seek its extension into those areas where it does not fully exist. This we see as the duty of the international academic community.



## **The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics (1990).**

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### **PREFACE**

The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics was adopted by delegates from six academic staff associations at the end of the Inaugural Workshop held at Silversands Hotel on 19th April, 1990. The associations were:

Ardhi Institute Staff Assembly (ARISA)

Cooperative College Staff Association (COCOSA)

Institute of Development Management Staff Association (IDMASA)

Institute of Finance Management Staff Assembly (IFMASA)

Sokoine University of Agriculture Staff Association (SUASA)

University of Dar es Salaam Academic Staff Assembly (UDASA)

The Associations are now involved in the process of discussing and ratifying the Declaration. The Declaration will become operative as soon as two-thirds of the founding staff associations ratify it.

The Inaugural Workshop was also attended by observers from many other institutions of higher education where there are as yet no academic staff associations. The Declaration makes provision for autonomous staff and students organisations, other than the founding associations. to accede to it as and when they are formed.

The Workshop formed a Coordinating Committee composed of all the Secretaries of the Staff Associations attending the Inaugural Workshop. The Committee has been charged with assisting and monitoring the process of ratification as well as propose and plan follow-up activities.

Finally, I would like to take this opportunity on behalf of all the participants to thank CODESRIA (Council for the Development of Economic and Social Research in Africa) for providing funds which made the Inaugural Workshop possible.

C.Y.L. Chachage

Convenor Coordinating Committee c/o UDASA

University of Dar es Salaam

### **Dar es Salaam Declaration on Intellectual Freedom**

#### **The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics**

### **PREAMBLE**

We are living in momentous times, ridden with crises but full of hope.

The stringent conditions of the international Shylocks have begun to put a squeeze on education in a dramatic fashion. Tanzania, like the rest of the African continent, finds itself

entangled in a web of socio-economic crises. As budgetary allocations for education become minuscule, education is threatening to become the preserve of a minority of the wealthy and influential in our society.

The State has become increasingly authoritarian. Authoritarianism is being further reinforced as the crisis-ridden government fails to offer palpable solutions. Witness the increasingly greater, deeper and more frequent encroachments on academic freedom and freedom to pursue truth and knowledge, particularly at the universities and other institutions of higher education.

These are times of crises. But they are also times of hope. As People's free and independent existence is in question, they are beginning to question the existence of unfree and right-less polities. We, as academics, intellectuals and purveyors of knowledge, have a human obligation and a social responsibility towards our People's Struggle for Rights, Freedom, Social Transformation and Human Emancipation. Our participation in the struggle of our people is inseparably linked with the struggle for the autonomy of institutions of higher education and the freedom to pursue knowledge without let, hindrance and interference from persons in authority.

In 1984, for the first time since independence, the Constitution of the United Republic of Tanzania was amended to include a Bill of Rights. The Constitution provided for the right to education and the right to opinion and expression which include academic freedom.

Tanzania subscribes to the United Nations' Universal Declaration of Human Rights; has ratified the International Covenants (1966) and the UNESCO Convention against Discrimination in Education and is a Party to the African Charter on Human and Peoples' Rights. These

declare for the right of education and freedom of opinion, expression and dissemination of information.

But rights are not simply given; they are won. And even when won, they cannot endure unless protected, nurtured and continuously defended against encroachment and curtailment

NOW THEREFORE, WE, the delegates of the Staff Associations of Institutions of Higher Education in Tanzania, meeting in Dar es Salaam, this 19th day of April, 1990 do Solemnly Adopt and Proclaim this Declaration.

## **PART I**

### **BASIC PRINCIPLES**

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#### **Chapter One**

##### **Education for Human Emancipation**

1. Every human being has the right to wholesome education. Education shall be directed to the full development of the human personality.
2. Access to education shall be equal and equitable.
3. Education shall prepare a person to strive for and participate fully in the emancipation of the human being and society from oppression, domination and subjugation.

4. Education shall enable a person to overcome prejudices related to gender, race, nation, ethnicity, religion, class, culture and such like. Education shall inculcate in every person respect for all humane culture developed by humankind.
5. Education shall develop critical faculties, inculcate the spirit of scientific enquiry and encourage the pursuit of knowledge and the search for the whole truth in the interest of social transformation and human liberation.
6. Education shall be secular. Religious instruction shall be separate from secular education and imparted to those wanting to partake of it voluntarily.
7. Education shall make every person conscious of ecology and the need to protect the environment.

## **Chapter Two**

### **Obligations of the State**

8. The State should guarantee to every resident equal, equitable and wholesome education without discrimination of any kind as to race, colour, gender, language, religion, political or other opinion, national or social origin, economic condition, physical or mental disability, birth or other status.
9. The State should make available an adequate proportion of the national income to ensure in practice the full realisation of the right to education. The State shall bind itself constitutionally to provide a nationally agreed minimum proportion of the national income for education.
10. The State should take affirmative action where necessary to redress historical and contemporary inequalities in access to education based on national, racial, social or gender differences or arising from physical disabilities.

## **Chapter Three**

### **Rights and Obligations of Communities**

11. In the exercise of the right to self-determination, nationalities, communities and like collectivities shall have the right to provide education. Such education shall be in conformity with the Basic Principles and other provisions of this Declaration.
12. It will be part of the obligation of a non-governmental organisation involved in the provision of education to contribute towards affirmative actions in conformity with the spirit of article 10.
13. It will be part of the obligation of a community or a nationality to struggle against prejudices, attitudes and beliefs which in any form or manner prevent or discourage its members from partaking of education on an equal basis.

## **PART II**

### **Academic Freedom**

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#### **Chapter One**

#### **Rights and Freedoms**

14. All members of the academic community have the right to fulfil their functions of teaching, researching, writing, learning, exchanging and disseminating information and providing services without fear of interference or repression from the State or any other public authority.
15. Civil, political, social, economic and cultural rights of members of the academic community recognised by the United Nations Covenants on Human Rights shall be respected. In particular, all members of the academic community shall enjoy freedom of thought, enquiry, conscience, expression, assembly and association as well as the right to liberty, security and integrity of the person.
16. All members of the academic community shall enjoy freedom of movement within the country and freedom to travel outside and re-enter the country without let, hindrance or harassment. This freedom may be restricted only on grounds of public health, morality or in circumstances of clear, present and imminent danger to the nation and its independence and which restrictions are justifiable in a democratic society.
17. Access to the academic community shall be equal for all members of society without hindrance. On the basis of ability every resident has the right, without discrimination of any kind, to become part of the academic as a student, researcher, teacher, worker or administrator without prejudice to any necessary affirmative action in that behalf.
18. Teaching and researching members of staff and students, directly and through their democratically elected representatives, shall have the right to initiate, participate in and determine academic programmes of their institutions in accordance with the highest standards of education and the Basic Principles.
19. All members of the academic community with research functions have the right to carry out research work without interference, subject to the universal principles and methods of scientific enquiry. In particular, researchers shall not be denied information or permission to do, or hindered in any way from doing, research on any ground except for reasons of public health and morality, or, in circumstances of clear, present and imminent danger to the nation and its independence and which restrictions are justifiable in a democratic society.
20. All members of the academic community with teaching functions have the right to teach without any interference, subject to the generally accepted principles, standards and methods of teaching.
21. A member of the academic community shall have the right to demand and receive explanation from any organ, official or administrator of the institution on its/her/his performance affecting her/him or the academic community at large.
22. Save where it is contrary to morality or principles of democracy, all members of the academic community shall enjoy the freedom to maintain contact with their counterparts in any part of the world as well as the freedom to pursue the development of their educational capacities.
23. All students shall enjoy freedom of study, including the right to choose the field of study from available courses and the right to receive official recognition of the knowledge and experience acquired. Institutions of higher education shall aim to satisfy the professional and educational needs and aspirations of the students.

24. All institutions of higher education shall guarantee the participation of students in their governing bodies. They shall respect the right of students, individually or collectively, to express and disseminate opinions on any national or international question.

25. It is the right of students on reasonable grounds to challenge or differ from their instructors in academic matters without fear of reprisal or victimisation or being subjected to any other form of direct or indirect prejudice.

### **Autonomous Academic Organisations**

26. All members of the academic community shall have the freedom Of association, including the right to form and join independent and autonomous trade unions. The right of association includes the right of peaceful assembly and formation of groups, clubs, associations and such other bodies to further the academic and professional interests of the members of the academic community.

27. All members of the academic community shall have the right to write, print and publish their own newspapers or any other form of media including wall literature, posters and pamphlets. The exercise of this right shall have due regard to the obligation of the members of the academic community not to interfere with the right of others to privacy and in any manner or form unreasonably arouse religious, ethnic, national or gender hatred.

## **Chapter Three**

### **Security of Tenure**

28. All members of the academic community shall be entitled to a fair and reasonable remuneration commensurate with their social and academic responsibilities so that they may discharge their roles with human dignity, integrity and independence.

29. Teaching and researching members of the academic community once confirmed in employment, shall have security of tenure. No teaching member or researcher shall be dismissed or removed from employment except for reasons of gross misconduct, proven incompetence or negligence incompatible with the academic profession. Disciplinary proceedings for dismissal or removal on grounds stated in this article shall be in accordance with laid down procedures providing for a fair hearing before a democratically elected body of the academic community.

30. No teaching or researching member of the academic community shall be transferred to another post or position within or outside the institution without her/his prior consent.

31. A member of the academic community has the right to know any report, adverse or otherwise, on her/his performance made or received by relevant officials or organs of the institution in the course of the execution of their duties.

### **Obligations of the State Administration**

32. The State and any other public authority shall respect the rights and freedoms of the academic community enshrined in this Declaration. The State is obliged to take prompt and appropriate measures in respect of any infringement by State officials of the rights and freedoms of the academic community brought to its attention.

33. Subject to article 40, the State shall not deploy any military, paramilitary, security or intelligence, or any other like forces within the premises and grounds of the institutions of higher education.

34. The State is obliged to ensure that no official or organ under its control produces or puts into circulation disinformation or rumours calculated to intimidate, bring into disrepute or in any way interfere with the legitimate pursuits of the academic community.

35. The State and the administration are obliged to ensure that the terms and conditions of service of the academic community are not, directly or indirectly, changed adversely or eroded such that the exercise of the rights and freedoms of the academic community is effectively undermined.

36. The State or the administration shall not impose direct or indirect conditions, procedures or any other form of restrictions which in effect nullify or curtail the rights and freedoms enshrined in this Declaration.

37. The administration is under an obligation not to divulge any information regarding members of the academic community which may be used to their detriment in any criminal, or other, investigation or proceedings of the like nature.

### **PART III**

#### **Autonomy of Institutions**

#### **OF HIGHER EDUCATION**

38. Institutions of higher education shall be independent of the State or any other public authority in conducting their affairs and setting up their academic, teaching, research and other related programmes. The State is under an obligation not to interfere with the autonomy of institutions of higher education.

39. The autonomy of the institutions of higher education shall be exercised by democratic means of self-government, involving active participation of all members of the respective academic communities. All members of the academic community shall have the right and opportunity, without discrimination of any kind, to take part in the conduct of academic and administrative affairs. All governing bodies of institutions of higher education shall be freely elected. They shall comprise of, among others, members of different sectors of the academic community such that the majority are representatives of students and academic staff. Staff associations shall be represented on these bodies.

40. No armed personnel, military or paramilitary forces, intelligence and security personnel or forces of law and order shall singly or collectively enter the premises and grounds of institutions of higher education except under the following conditions--

(a) There is clear, present and imminent danger to life, or property of the institution, and such danger cannot be averted without the intervention of the forces of the State; and

(b) The Head of the institution concerned has invited such intervention in writing; provided that such invitation shall not be extended without consultation with and approval of a special standing committee of elected representatives of the academic community instituted in that behalf.

### **PART IV**

#### **SOCIAL RESPONSIBILITY**

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## **Chapter One**

### **Responsibility of Institutions**

41. All institutions of higher education shall pursue the fulfillment of economic, social, cultural, civil and political rights of the people and shall strive to prevent the misuse of science and technology to the detriment of those rights. Institutions of higher education should be critical of conditions of political repression and violations of human rights in our society.

42. All institutions of higher education shall address themselves to the contemporary problems facing our society. To this end, curricula and academic programmes as well as other activities of the institutions shall respond to the needs of the society at large without prejudice to the needs of scientific enquiry and production of knowledge.

43. All institutions of higher education shall extend support to other such institutions and individual members of academic communities, both inside or outside the country, when they are subject to persecution. Such support may be moral or material, and should include refuge and employment or education for victims of persecution.

44. All institutions of higher education should strive to prevent scientific, technological and other forms of dependence of our society and promote equal partnership of all academic communities of the world in the pursuit and use of knowledge.

45. All institutions of higher education are obliged to offer academic programmes of the highest standard, suitable to the professional needs and aspirations of their students.

## **Chapter Two**

### **Responsibility of Academics**

46. All members of the academic community have a responsibility to fulfil their functions and academic roles with competence, integrity and to the best of their abilities. They should perform their academic functions in accordance with ethical and highest scientific standards.

47. All members of the academic community shall exercise their rights with responsibility without prejudice to the rights of others and the needs of our society.

48. All members of the academic community have the obligation to inculcate the spirit of tolerance towards differing views and positions and enhance democratic debate and discussion.

49. No member of the academic community shall participate in or be a party to any endeavour which may work to the detriment of the people or the academic community or compromise scientific, ethical and professional principles and standards.

50. All members of the academic community have a duty to contribute towards redressing historical and contemporary inequalities in our society based on differences of class, beliefs, gender, race, nationality, region and economic condition. Towards this end, all members of the academic community should voluntarily give their time to impart education to disadvantaged sectors of the population.

## **PART V**

### **RATIFICATION AND ACCESSION**

51. This Declaration shall come into force when ratified by the membership of two-thirds of the staff associations of the institutions of higher education attending the inaugural workshop.

52. Any autonomous staff association or autonomous student organisation of an institution of higher education in Tanzania may accede to this Declaration by depositing instruments of ratification with the body established in that behalf.

## **PART VI**

### **DEFINITIONS**

53. In this Declaration, unless the context otherwise requires, "Academic community" covers all those persons teaching, studying, researching or otherwise working at an institution of higher education;

"Academic freedom" means the freedom of members of the academic community, individually or collectively, in the pursuit, development and transmission of knowledge, through research, study, discussion, documentation, production, creation, teaching, lecturing and writing;

"Administration" means the organs and officials involved in the administration of an institution of higher education;

"Affirmative action" refers to deliberate action, including positive discrimination taken as a temporary measure to redress historical or contemporary inequality;

"Autonomy" means the independence of institutions of higher education and organisations, associations and groups within these institutions from the State and any other public authority including a political party but not including organisations of civil society and "autonomous" shall be construed accordingly;

"Basic Principles" means principles enunciated in Part I of the Declaration and where the context requires 'education' shall be construed to mean education in accordance with the Basic Principles;

"Community" as used in Chapter Three of Part I herein refers to a national group solidarity by virtue of commonality of culture, language, or religious belief and includes neighbourhood groups;

"Independence" in relation to a member of the academic community, the academic community or institution refers to the freedom to pursue the academic profession without compromise;

"Institution" means an institution of higher education;

"Institutions of Higher Education" means universities and other post-secondary school institutions offering formal instruction, or conducting, research, leading to qualifications of Diploma or Degree, or like qualifications, but do not include vocational and in-service training centres;

"Inaugural workshop" means the first meeting of the delegates of the institutions of higher education called to adopt and proclaim this Declaration;

"Nationality" refers to groups within State societies solidarity by virtue of common territory, culture and language;



"Resident" means any person living in Tanzania including her/his immediate family.

# **The Kampala Declaration on Intellectual Freedom and Social Responsibility (1990)**

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## **PREAMBLE**

Intellectual freedom in Africa is currently threatened to an unprecedented degree. The historically produced and persistent economic, political and social crisis of our continent continues to undermine development in all spheres. The imposition of unpopular structural adjustment programmes has been accompanied by increased political repression, widespread poverty and intense human suffering.

African people are responding to these intolerable conditions by intensifying their struggles for democracy and human rights. The struggle for intellectual freedom is an integral part of the struggle of our people for human rights. Just as the struggle of the African people for democracy is being generalised, so too is the struggle of African intellectuals for intellectual freedom intensifying.

AWARE that the African States are parties to international and regional human rights instruments including the African Charter on Human and People's Rights and CONVINCED that we, the participants in the Symposium on 'Academic Freedom and Social Responsibility of Intellectuals' and members of the African intellectual community, have an obligation both to fight for our rights as well as contribute to the rights struggle of our people, we met in Kampala, Uganda, to set norms and standards to guide the exercise of intellectual freedom and remind ourselves of our social responsibility as intellectuals.

We have thus adopted the Kampala Declaration on Intellectual Freedom and Social Responsibility on this 29th day of November, 1990.

May the Declaration be a standard-bearer for the African intellectual community to assert its autonomy and undertake its responsibility to the people of our continent.

## **CHAPTER I FUNDAMENTAL RIGHTS AND FREEDOMS Section A: Intellectual Rights and Freedoms**

### *Article 1*

Every person has the right to education and participation in intellectual activity.

### *Article 2*

Every African intellectual shall be entitled to the respect of all his or her civil political, social, economic and cultural rights as stipulated in the International Bill of Rights and the African Charter on Human and People's Rights.

### *Article 3*

No African intellectual shall in any way be persecuted, harassed or intimidate for reasons only of his or her intellectual work. opinions gender, nationality ethnicity.

### *Article 4*

Every African intellectual shall enjoy the freedom of movement within his or her country and freedom to travel outside and re-enter the country without let hindrance or harassment. No administrative or any other action shall directly or indirectly restrict this freedom on account of a person's intellectual opinions beliefs or activity.

*Article 5*

Every African intellectual and intellectual community has the right to initiate and develop contacts or establish relations with other intellectuals and intellectual communities provided they are based on equality and mutual respect.

*Article 6*

Every African intellectual has the right to pursue intellectual activity, including teaching, research and dissemination of research results, without let or hindrance subject only to universally recognised principles of scientific enquiry and ethical and professional standards.

*Article 7*

Teaching and researching members of staff and students of institutions of education have the right, directly and through their elected representatives, to initiate, participate in and determine academic programmes of their institutions in accordance with the highest standards of education.

*Article 8*

Teaching and researching members of the intellectual community shall have security of tenure. They shall not be dismissed or removed from employment except for reasons of gross misconduct, proven incompetence or negligence incompatible with the academic profession. Disciplinary proceedings for dismissal or removal on grounds stated in this article shall be in accordance with laid down procedures providing for a fair hearing before a democratically elected body of the intellectual community.

*Article 9*

The intellectual community shall have the right to express its opinions freely in the media and to establish its own media and means of communication.

**Section B: Right to form Autonomous Organisations**

*Article 10*

All members of the intellectual community shall have the freedom of association, including the right to form and join trade unions. The right of association includes the right of peaceful assembly and the formation of groups, clubs and national and international associations.

**Section C: Autonomy of Institutions**

*Article 11*

Institutions of higher education shall be autonomous of the State or any other public authority in conducting their affairs, including the administration, and setting up their academic, teaching research and other related programmes.

*Article 12*

The autonomy of institutions of higher education shall be exercised by democratic means of self-government, involving active participation of all members of the respective academic community.

**CHAPTER 11**

**OBLIGATIONS OF THE STATE**

*Article 13*

The State is obliged to take prompt and appropriate measures in respect of any infringement by State officials of the rights and freedoms of the intellectual community brought to its attention.

*Article 14*

The State shall not deploy any military, paramilitary, security, intelligence, or any like forces within the premises and grounds of institutions of education.

Provided that such deployment is necessary in the interest of protecting life and property in which case the following conditions shall be satisfied:

- (a) There is clear, present and imminent danger to life and property; and
- (b) The head of the institution concerned has extended a written invitation to that effect; and
- (c) Such invitation has been approved by an elected standing committee of the academic community set up in that behalf.

*Article 15*

The State shall desist from exercising censorship over the works of the intellectual community.

*Article 16*

The State is obliged to ensure that no official or any other organ under its control produces or puts into circulation disinformation or rumours calculated to intimidate, bring into disrepute or in any way interfere with the legitimate pursuits of the intellectual community.

*Article 17*

The State shall continuously ensure adequate funding for research institutions and institutions of higher education. Such funding shall be determined in consultation with an elected body of the institution concerned.

*Article 18*

The State desist from preventing or imposing conditions on the movement or employment of African intellectuals from other countries within its own country.

**CHAPTER III  
SOCIAL RESPONSIBILITY**

*Article 19*

Members of the intellectual community are obliged to discharge their roles and functions with competence, integrity and to the best of their abilities. They should perform their duties in accordance with ethical and highest scientific standards.

*Article 20*

Members of the intellectual community have a responsibility to promote the spirit of tolerance towards different views and positions and enhance democratic debate and discussion.

*Article 21*

No one group of the intellectual community shall indulge in the harassment, domination or oppressive behaviour towards another group. All differences among the intellectual

community shall be approached and resolved in the spirit of equality, non-discrimination and democracy.

*Article 22*

The intellectual community has the responsibility to struggle for and participate in the struggle of the popular forces for their rights and emancipation.

*Article 23*

No member of the intellectual community shall participate in or be a party to any endeavour which may work to the detriment of the people or the intellectual community or compromise scientific, ethical and professional principles and standards.

*Article 24*

The intellectual community is obliged to show solidarity and give sanctuary to any member who is persecuted for his or her intellectual activity.

*Article 25*

The intellectual community is obliged to encourage and contribute to affirmative actions to redress historical and contemporary inequalities based on gender, nationality or any other social disadvantage.

**CHAPTER IV  
IMPLEMENTATION**

*Article 26*

Members of the intellectual community may further elaborate and concretise the norms and standards set herein at regional and pan-African level.

*Article 27*

It is incumbent on the African intellectual community to form its own organisations to monitor and publicise violations of the rights and freedoms stipulated herein.

**RECOMMENDATIONS AND RESOLUTIONS OF THE  
SYMPOSIUM ON ACADEMIC FREEDOM AND SOCIAL  
RESPONSIBILITY OF INTELLECTUALS  
KAMPALA, NOVEMBER 29TH 1990  
THE STATE AND ACADEMIC FREEDOM**

\* The symposium condemned violations of the autonomy of academic institutions through closures, invasion by security, police or military forces, censorship of intellectual work, restrictions on freedom of association, movement, speech and publishing.

\* The symposium demanded the immediate and unconditional release of all intellectuals and their families illegally or extra-judicially detained or imprisoned, the return of those exiled, and an end to all harassment, intimidation and persecution of intellectuals, on the basis of their work.

\* The symposium called upon all States to adequately resource academic and intellectual endeavours because without this there can be no academic freedom.

**THE INTELLIGENTSIA AND INTELLECTUAL FREEDOM**

\* The symposium called for the creation of a Pan African Organisation to monitor, document and disseminate information on abuses of academic and intellectual freedom and repression, harassment, intimidation and detention of intellectuals.

\* The symposium called for the strengthening and democratisation of existing networks and associations of the African intellectual community through the increased representation of marginalised groups such as women, young and unestablished scholars.

\* The symposium called for the transformation of administrative structures, procedures and practices in academic institutions to make these more representative of and accountable to teachers, researchers, students and others working within them.

\* The symposium called for the promotion of participatory and democratic methods of teaching, research and publishing, and high professional and ethical standards.

\* The symposium called upon African academic institutions to promote intellectual exchanges among African scholars, provide sanctuary to exiled scholars, and to offer all African academics equal terms of service, remuneration and treatment regardless of nationality.

\* The symposium called upon African intellectuals to develop solidarity and supportive networks to defend the collective interests of the intellectual community.

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