



# Liberties, Freedom and Autonomy: A Few Reflections on Academia's Estate

Justin Thorens

18 Chemin du Nant d'Arsey, Corsier Geneve CH 1246, Switzerland.  
E-mail: [etude.jthorens@bluewin.ch](mailto:etude.jthorens@bluewin.ch)

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## Introduction

There are several reasons why the issues of academic freedom and university autonomy have re-emerged on the agenda in the last few years. First of all, there is the spiralling increase in the number of students<sup>1</sup> since the end of the Second World War with, as its corollary, the explosion in most countries — whatever their political or social system — of the number of higher education institutions, a phenomenon that has gained momentum over the years.

But three other phenomena have also played just as decisive a role:

- (1) the fall of many dictatorial or authoritarian regimes, and more especially the Communist regimes in the former Soviet Union and Europe;
- (2) the growing, and no doubt sometimes excessive, influence of the economic world, be it on teaching or research, with applied and basic research contracts being more and more entrusted to universities, and the creation of 'universities' by or within large firms, and more especially multinationals;
- (3) the ever more rapid development, thanks to the new means of communication offered by today's technology, of distance education and, as a corollary the creation *de facto* or by law of 'virtual' universities whose activities extend to many countries and are almost universal. They escape all control, including state control, but also at least for the moment control beyond the national.

The issues of academic freedom and university autonomy are, however, sometimes posed in an ambiguous manner and notably so when no distinction is made between the specific character of academic freedom as against the



freedom of expression, which as one of the fundamental Rights of Man, belongs — or ought to belong — to all human beings whatever their condition and wherever they are, simply because they are human beings. One of my objectives in this study is to make, as far as possible, a satisfactory distinction between the two.

One should also focus — maybe in a slightly different manner from the usual — on the relations between academic freedom and university autonomy by defining and making a distinction between them. In the same way, one must stress the difference between academic freedom and academic liberties, since — maybe for semantic reasons — one corresponds more closely to the English use and the other to the French use, and they embrace different concepts.

### **Basic issues**

Last — and to my mind, this is fundamental — one must study and understand their historical origin since, here, as elsewhere — but maybe in a more immediate and sensitive manner, given the origins of the *hautes écoles* — history played a central role. Only history helps us to fully understand their present impact by observing their evolution over several centuries. Over the years, these concepts have changed in several respects and have rid themselves of certain elements that have become obsolete. But, in the same way as they have rid themselves of useless and obsolete elements, they have enriched themselves with new decisive ones, while preserving, and this is essential for me and can help us to understand the impact of the present upheavals, what still today constitutes some of the main characteristics of a university.

Another basic issue that is widely debated, since opinions differ greatly, is whether academic freedom, liberties and university autonomy are really specific and limited to the institutions that correspond to the concept of university, or if they should not be extended to all higher education institutions, or even to all educational institutions, including secondary, primary and strictly vocational institutions.

One should also ask oneself in this context whether academic freedom is a monolithic concept or if — as I believe — it comprises varying degrees that correspond to the requirements imposed by their duties upon all teachers, researchers and students.

Last, but from a different standpoint, the question also arises of knowing whether the ‘rights’ and duties associated with academic freedom should only be granted to these institutions and those who are attached to them, such as teachers, researchers and students, or whether all researchers should be entitled to them, for instance those who work independently or who are part of and dependent on a firm — be it a for profit or not-for-profit, private or public firm — which does not correspond to the notion of university.



It seems to me that the answers lie in the definition of what is or, more exactly, what a university should be. The issue has become particularly acute since the explosion in the number of higher education institutions at the end of the Second World War and more especially since the events known as ‘May 1968’ and the democratization of studies (deGroof *et al.*, 1998).

### **Definitions and concepts**

To analyse the concept of university, one must know what one is talking about. Is it the concept of university in general — somewhat disincarnate — that consists only in the definition of the mere idea, or is it that of a certain institution that exists at a given period and in a given place? I shall base myself on the concept which, in essence, applies to all institutions that in my eyes are universities because they bear the characteristics that define an institution of higher education and research as such, even if differences between universities can be and are often considerable.

For me, from this standpoint, a university is a university *stricto sensu* solely when the higher education institution allies teaching and research and more especially advanced research. A university professor must be at the vanguard of his branch, but this is only possible if he himself is a researcher.

Without wanting to go back on the distinction between basic or pure research and applied research — which would deserve to be deepened and broached with nuances — taking into account the sometimes mind-boggling acceleration of the present development of science, I shall rally to the definition according to which one of the missions of a university is to seek truth *per se*. This could also be expressed as the development of knowledge in order to avoid stereotypes and be better understood. This characteristic is essential and no doubt enables one to stress the ultimate difference between a ‘true’ university and other higher education or research institutions. This does not mean that these other institutions are less useful to society or even less prestigious, but simply that they lack one of the principal and specific purposes of the university, which is to unite the development of knowledge *per se* and higher education.

Following this definition, the university — although it does not always correspond to the present usual and legal sense, since certain institutions that bear the title are not universities and others that do not, are — is an institution created or allowed by society and the State to participate in the development of knowledge and its dissemination through research and higher education for the welfare of mankind.



Hence, we find as a follow-up to this definition the three missions that are traditionally associated with the university: higher education, research, mainly but not exclusively pure or applied, and other services rendered to society as a whole, whether directly or indirectly. This latter mission obviously depends on the first two.

This specificity is such that the purpose of a university is to train man at the highest level, participating in his development and the preservation and continuous creation of civilization for the common weal. For the university to be able to play this role, the training it offers should not only be professional — even if it can and sometimes must be in part — but should also open the mind beyond the subject taught to science as a whole, thus training cultivated and responsible beings and rendering a service to all mankind.

This definition — if it is accepted — explains and justifies the demand for academic freedom — although the concept remains to be defined — on the part of researchers and teachers and also explains why teachers must automatically be researchers.

In the same way, it explains why the search for truth *per se* is vital and is a part of the very essence of the university, together with higher education. The university is the instrument that society and the State use to promote the development of knowledge in a general and ‘disinterested’ way. Thus, it ensures this same knowledge, that is, the humanities and social sciences, as well as exact and natural sciences progress over the long term — and that they do so not simply for the immediate purpose of economic development, practical application or even prestige — but also for the welfare of mankind.

One must be aware and have both the modesty and the wisdom to recognize that such long-term research, which does not have economic returns as its immediate purpose, is, however, nearly always a source of development and enrichment for society — in the more or less long term (although today lead times tend to narrow). Often, it can lead to unexpected discoveries that can sometimes be used immediately, as well as, sooner or later, to ‘applied’ research.

In this context, one must be aware of the dangers of the present trend of wanting universities to offer ‘returns’, and more especially economic and immediate returns, and of transforming them into high level vocational schools. This would make them lose their specificity and change them into another kind of institution, which is obviously useful but serves another purpose. They would then be unable to fulfil the mission of a true university.

Political authorities exercise a growing and yet understandable pressure on universities to meet and be responsive to the economic world for reasons of budget and economic development of a region and country. This is not negative in itself. It is even sometimes necessary, but only if the university preserves its independence and does not betray its mission in order to obtain the funds it lacks.



In this context, one must stress the vital importance for the university to pursue and encourage research in the human and the moral sciences, and more particularly in the humanities whose results cannot nor should they, be estimated in terms of their economic contribution, but of the knowledge they bring about ourselves, our past and our relations with others. A better understanding of the evolution of society, of its history over time and in space is an enrichment and is part of research and the search after truth. The purpose of these sciences is also to orientate research in the 'hard' sciences towards the solution to the problems faced by society at a given time and in a given context and to create the necessary but oft forgotten junction between the results of these sciences, the human being and society.

### **Multiple declarations**

In the last few years — and this shows the pertinence of this issue — many countries emerging from authoritarian regimes have foreseen academic freedom in their laws on higher education and more especially in those that concern universities. In the same way, statutes also reinforce its importance and even its protection among countries that are familiar with it.<sup>2</sup> (Lord Jenkins of Hillhead quoted in Russell, 1993) In the same way, many Declarations<sup>3</sup> (CEPES, 1995) try to define it and are reminders of its importance and necessity. But they are often limited to a geographical or cultural area and/or to problems that are specific to a certain kind of university. This sometimes makes them difficult to implement because they combine the issue of academic freedom and other issues. In addition, they are often only made by the academic world and hence do not have the impact of a binding declaration. They are therefore not always perceived as an obligation. One should always be wary also lest these declarations, even unconsciously, defend the corporate interests of members of academic bodies or the administrative and technical bodies.

This is why some years ago UNESCO launched a study — but probably in too cautious a manner — to determine whether a universal declaration on the subject, proclaimed by this world organization, would be desirable and feasible. It asked the International Association of Universities (IAU)<sup>4</sup> to study the problem, which IAU did in several recent meetings. These studies led to a text discussed at the World Conference on Higher Education in Paris during October 1998. The participants in the thematic debate unanimously adopted a resolution asking UNESCO<sup>5</sup> (UNESCO, 1997) to submit a formal decision at its next General Conference. The World Conference on Higher Education took a favourable stand in its final declaration and work on this topic has been pursued since (World Declaration on Higher Education, 1998).



## The Historical Origins

The historical origin of university autonomy and academic freedom goes back to the High Middle Ages in Europe and the creation or, more exactly, as we shall see, the ‘recognition’ of the existence of the first universities in Western Christianity. Indeed, university autonomy and academic liberties, in the sense given to those concepts at the time, were elements that defined the institution in relation to other ‘hautes écoles’ of the period, be that institution in the Christian West or in the rest of the world, since its creation and recognition in Western Europe.

### Academic liberties

Academic liberties developed in Europe in two successive stages that still characterize in part the institution, even if, following the evolution of our societies, universities are no longer solely European, but can be found in all regions of the world, whatever the local civilization and culture. The first stage corresponds to the development of the corporations, which were born around the 11th century in Europe. Possibly as a reaction to feudalism and no doubt a consequence of the development of society and the rise of new social classes, the trades organized themselves in guilds or corporations that brought together members of the same trade, be they independent masters, companions or apprentices. This phenomenon took place in every trade and almost everywhere in the Western world, but at different periods according to the regions, sometimes very early and sometimes much later. The Latin word ‘*universitas*’ was the most common term that defined these corporations.

The same phenomenon occurred with professors and students. The word *universitas*, however, progressively took on a specific meaning and was only used for those corporations concerned with teaching and the advance of learning. They differed from those schools both attached to cathedrals and convents in the Christian Western World and closely dependent on the Church, more especially the local Church, and which at the time generally speaking, were alone devoted to advanced studies.

The second stage of development of academic liberties had its origin in the struggle between these new type of schools and the civil and religious local authorities, be it the local political authority that was born at that time, or with the lords spiritual and temporal. Progressively, the Church, Princes and Cities protected the new institution. They recognized its importance, its intellectual and social prestige, as well as the material riches that it brought to their cities.

The first European universities were not, *stricto sensu*, ‘created’ by either Church or princes, but were recognized by them through the compulsory



approval of the Pope and/or the Holy Roman Emperor, as we shall see below. This is the case, more particularly, for these universities still in existence and usually considered to-day to be the first in Europe — in chronological order: Bologna, Paris and Oxford.

### **Royal protection**

For all three universities, — and it is an essential point — royal protection and even enactments, whether in Paris or in Oxford, were not sufficient for these ‘hautes écoles’ to be ‘recognized’ as universities with corresponding rights. In the case of Bologna, however, the protection and decision of the prince were sufficient because at the same time he was also the ‘Emperor’. Paris and Oxford on the other hand received recognition or only became ‘universities’ following upon the acceptance of, or decision by, the Sovereign Pontiff.

This procedure stands as the second characteristic of the university. At the time, a university was born only when the ‘universal’ authority in the Christian Western meaning of the term, in effect either Pope and/or Emperor bestowed such recognition, a condition that lasted at least until the Reformation, which in the 16th century, sundered the unity of the Christian West. This essential feature, though difficult to grasp today without a grounding in the history of the European Middle Ages, lies at the origin of the international or transnational nature of the university, now considered as one of its prime characteristics.

Such approval, which required the protection of Pope and/or Emperor, was decisive. It entitled the university to call upon an authority then considered universal and supreme in the Christian Western world in the event of its ‘rights’ not being recognized or flouted by local civil or religious authority; in principle to countermand decisions of the greatest sovereigns, for instance, the King of France or the King of England. This occurred several times with Paris and Oxford, and later with universities, created by the official act of kings and princes, but which — until the Reformation — only became ‘universities’ with all the rights attached to this title, following the approval of Pope or Emperor’s.

Conferment of the *studium generale* on the institution gave it the right to deliver the *licencia ubique docendi*, that is, the right to teach in the entire Christian Western world (Cobban, 1992).

As States in the modern sense emerged in Europe, so the authority and primacy of the Emperor over other princes slipped away. Given this evolution, and particularly for the new universities which were founded outside his own States, the Emperor was invoked less and less, which left the sole truly universal authority recognized in the Christian Western world, namely, the Pope.



These sketches — which are close to caricatures in their brevity — are nonetheless crucial. They underline the international character of the university from the outset and mark the basic difference between ‘academic freedom’ in the modern usage and ‘academic liberties’ in the sense of privileges conferred on the institution and its members, professors and staff by the princes and/or the Pope, which removed it partially or wholly away from the jurisdiction of local authorities. This was the case, with the famous *Constitutio Habita* of Frederick Barbarossa issued in 1158 (Thorens, 1988, 44) at the Diet of Roncaglia in favour of Bologna. It was followed later, for example, by Philip Augustus in favour of Paris in 1200 (Renaut, 1995, 53) or the Pope through his legate in favour of Oxford in 1214 (Russell, 1993, 16).

### **Liberties both plural and singular**

In this sense, academic liberties include university autonomy but do not correspond to the present concept of academic freedom in the singular, the purpose of which is to protect the individual member of the university, teacher and researcher or even student. This difference is even clearer given that the academic freedom of — say — the professor — which in its present meaning also exists with regard to his colleagues and even, to a certain degree, to the academic institution that employs him — did not exist. To analyse the present interpretation of academic freedom in the singular and university autonomy would require delving deeper into the basic changes in the university institution over the centuries, from the Middle Ages to the present day, which the limits of this brief study exclude (Ruegg and de Ridder Simoens, 1992 ff, 1996).<sup>6</sup>

Yet, the general crisis of universities in certain European countries, and more especially in France and in England, during the second part of the 18th century cannot be avoided (even if, in parallel, a certain renewal was felt for instance, in Austria, Scotland and the Netherlands (Stone, 1974; Frijhoff, 1992, 1250–1259). Their quasi-collapse during the French Revolution, which simply suppressed them for a century<sup>7</sup> (Renaut, 1995, 154–155), the fundamental importance of the conceptual and intellectual upheaval caused by the creation of the University of Berlin in 1810<sup>8</sup> (Nybom, 2003, 141–159) modified — and still determines to a great extent — our concept of what a university should be. Suffice it to recall the impact Berlin had on the evolution of the institution in the world, for instance, on the universities of the United States of America, giving birth in part — indirectly and directly — to their famous research universities (Renaut, 1995, 93–94).

More particularly, this revolution asserted that, on the one hand, a university should combine teaching and research and, on the other, stressed that one of its quests was to seek the unity of science and hence of all sciences.



But one cannot say that Wilhelm von Humboldt defended the democratization of the University in the sense we understand it today. Mention should also be made of the profound change brought about in the course of the same century, when eminent personalities in the English-speaking world set out a very different vision of what the university was in their eyes<sup>9</sup> (Newman, 1852; Rothblatt, 1997), through the Morrill Act, which gave birth to the Land Grant Colleges and Universities in the United States. This Act was proof of a considerable evolution, since it gave a much more practical interpretation of research and higher education. Colleges and universities founded under this Act were created in a spirit of practicality to teach mechanical sciences and agriculture. Similar orientation is to be seen in the fields of study provided in Japan following its forced opening to the Western world during the Meiji period: the foundation in 1886 of the Imperial University, now the University of Tokyo, and the University of Kyoto (Nagai, 1985, 147). Similarly, the foundation of University College London by Jeremy Bentham in 1828 marked a clear break with the tradition represented by the universities of Oxford and Cambridge in England. However, one may note that the creation of King's College in 1832 was linked to the Oxbridge tradition.<sup>10</sup> Last, there is recent and as yet unstructured evolution that transformed, without one necessarily noticing it, certain universities — including some of the most prestigious — into 'so-called' 'multi-versities', which could be seen as a kind of self-service, setting courses before students who could freely choose them (Kerr, 1964).

Moreover, the significance of the way the university, or even of the whole higher education and research sector, developed is not easily grasped if account is not taken of the way the former Faculty of Arts 'exploded' at the end of the 18th century with the rapid proliferation of science in all fields. This phenomenon has not ceased since. The sciences are now ever more numerous, have specialized around distinct branches and coalesced around chairs, departments and faculties.

Following these changes, clearly the university — although this has been implicit for many years — is no longer a corporation in the medieval sense of the term, even if it still retains some of its characteristics.

### **Dispensable liberties**

Hence, academic liberties are no longer essential in their historical sense. They no longer constitute a juridical privilege that allows members of the academic community, be they professors or students, to escape totally or partially from ordinary tribunals. Yet, academic freedom in the singular slowly takes on its full meaning. It becomes decisive for the institution to fulfil its role to seek the truth, that is, to develop knowledge, even at the risk of displeasing the State,



society, its elites, and public opinion, not forgetting the scientific community itself and more especially colleagues and the academic authorities. In a democratic society, this latter can sometimes be as dangerous for the career of a member of the academic community as opposing the State.

Such recent patterns of evolution in higher education and research entail *de facto* the institution's increasing dependency — especially if it wants to hold the economic world at a distance — a dependency on society, but above all on the State<sup>11</sup> (Neave, 2001, 13–73). The State is still its supreme agent, because of the influence the university exercises over students and on the public at large. This influence may indeed run counter to prevailing ideas and in an extreme case could destabilize society because the university trains young people and more especially future elites. Today, Society and the State are suspicious of the University and seek to control it.

The cost of higher learning has become considerable in the course of the last decades with the spiralling growth in the number of students and the huge increase in the cost of research. Hence, university autonomy, which has regularly been recognized and celebrated, became *de facto* more limited. University autonomy therefore finds no other socially acceptable justification — and rightly so — than its contribution to the mission of the university, to the quality of teaching and research and, in this framework, to one of its roles namely, to permit and, more importantly, to encourage academic freedom. This is necessary to seek truth *per se* and thus contribute to the advancement of knowledge and its dissemination.

University autonomy must therefore be redefined, just like academic freedom, to take account of the development of society and the present mission of the university whose *raison d'être*, if one compares it to other teaching and research institutions, lies in its contribution to the development of mankind and society through the search for truth for its own sake and through its preservation and dissemination in training elites, and — what comes to the same but expressed differently — the fulfilment of its mission of active guardian of high level culture.

## **Academic Freedom and Academic Liberties**

If one analyses what is or what ought to be academic freedom in the universities of contemporary society, one sees that most of the juridical privileges, which attached historically to the institution are now redundant. Indeed, in a modern and democratic society in the sense usually given to this term — and more especially in Western societies — these privileges are no longer justified. In the sense of 'freedoms', understood as caste privileges or privileges of a certain social category, they are utterly obsolete.



The rights that Society and State can — and no doubt should — grant to members of the academic community and to the institution itself are justified only if they enable them to fulfil their tasks to the best of their ability. They are the counterpart but also the necessary condition of the duties that go with these tasks.

Accordingly, academic freedom is as much a duty as a right. University teachers and researchers have an obligation to carry out research and to share, through higher education, their discoveries and beliefs. Both sides of the coin are represented in the obligation they have to carry out research and teach and the protection they must be afforded to be able optimally to fulfil this obligation.

Academic freedom and university autonomy must now be understood according to the requirements of a democratic society. But one must agree — and this is not always easy — on what is meant by democratic society, a society that is and must be very different from that of the Middle Ages and of the Age of Enlightenment, for example.

The privileges of corporations and their members in the sense of juridical autonomy that enabled them to escape the jurisdiction of the State would nowadays do violence to our belief in the equality of mankind; such privileges have vanished in the same way as those associated with birth.

In contrast to the situation that prevailed in the European Middle Ages, a clearcut distinction needs to be drawn between the justified autonomy of the institution, which is no longer and must not carry juridical immunity, and the academic freedom of the institution's members, which is justified and has both meaning and value only if it helps them fulfil their mission and indeed is a prior condition to their fulfilling their mission and their specific duty as academics.

Hence, autonomy can be understood and accepted only as the degree of useful — indispensable — autonomy for the university to fulfil its mission. In short, we can grossly define *autonomy* as the indispensable freedom that allows the *institution* to organize itself in order to best fulfil *its* tasks. Academic *freedom* stands as the necessary freedom that allows *members* of the institution to best fulfil their individual tasks qua members of the institution.

What is specific, curious but also difficult in setting the boundary or the limit to these rights is that such a boundary depends entirely on the wisdom and good will of society, but even more so of its supreme agent which, still today, is the State.

Hence, society and the State must be convinced and therefore ready to recognize and grant these rights, which are the counterpart of the duties of the universities and of the members of the academic community.

### **State, society and higher education: mutual obligations**

Both parties have therefore a mutual and essential obligation that is necessary but not easy. The university and its members must prove the utility and even



the need of these rights. Both Society and the State must have the wisdom to recognize that respecting these rights is fundamental for the university to be able to fulfil the specific mission they ask of it.

Society and the State must therefore of their own accord and in their well-understood interest abstain from wanting to determine everything and accept the harsh and sometimes even unjust criticism of the university and the members of the academic community if they want the university to be able fully to play its role in the service of mankind and society, its very *raison d'être*.

In short, wisdom — and therefore discretion and measure — must or should reign on both sides, both parties having to find the necessary — yet always unstable — balance. This issue is particularly important for the State, which *de facto* detains ‘full powers’ even today. But it is also very important for society because of the dangers caused by the not always justified movements of public opinion and the considerable power of the economy, which sometimes surpasses that of the State. The State, which has a power of life and death over universities — be they public or private — that depend on its good will for their existence, their status and, directly or indirectly, for their funding, must make the essential and indispensable effort to realize that if it wants them to render the services it expects — and has the right to expect — of them and that they alone can render, for which they were created and to which it devotes a large part of its resources, universities must enjoy true freedom, even if it is perforce limited in relation to it.

Today, the issue is more ambiguous and poses a new unsolved problem with distance education and even more so with the birth of virtual universities which could *de facto* or *de jure* escape the control of the State.

One must repeat *ad nauseam* that the search for truth, that is, the advancement of knowledge *per se*, regardless of its practical and/or immediate utility, is one of the characteristics of the university in the meaning that I give to the word, when one compares it to other institutions of education and research. It should also be stressed, once again, that in the long-term research is always the source of development and riches for society and the development of high-level culture.

### **Academic Freedom Today**

The only way of successfully ensuring the search for truth — the ‘disinterested’ development of knowledge and its dissemination — is to grant researchers and teachers sufficient freedom to undertake and pursue this research and their teaching in all reasonable tranquillity to fulfil their duty. They must be able to do this without worrying about the risk they run because they are outside traditional or fashionable trends, go against stereotyped thought, in the face of



public opinion, the stance of the authorities, or even of the other members of their own institution and the scientific community.

Academic freedom — and this must be stressed — is as necessary in regard to and *inside the institution* as it is in regard to the State and society. There is indeed a real risk for a young researcher, an original or iconoclastic researcher to see his career hindered by a respected colleague at the time of his promotion because he does not share the same scholarly opinion.

One must also be aware — and this is important, even if, at first, it is an argument more difficult to follow — that there is no need for pressures to be present in reality for this freedom to be violated or jeopardized. It is already so if a professor or a researcher, for fear of seeing his promotion threatened, does not dare to undertake or pursue research, express an opinion or even simply defend it. This phenomenon is more frequent than usually imagined in a democratic society, subject to both the pressures of public opinion and different milieux, be they cultural, religious, political or economic, as well as decisions of the political and academic authority all of which can impoverish the institution and its innovative role, and hence its *raison d'être*.

A researcher must feel free to undertake and pursue all research in the scientific field that has been attributed to him on his appointment and be able to share it with the scientific community and his students without asking himself whether this will not entail risks for him or even jeopardize his promotion.<sup>12</sup>

Such absence of fear, if only sensed, should give researchers and university teachers the necessary freedom of mind for them to devote themselves to their work without worry — even if only about their career. This attitude is positive for society since it encourages innovation, an open and critical mind, and therefore the advancement of knowledge.

This freedom of mind and the positive reaction of the competent authority are necessary for researchers to obtain the funds they need to pursue their research when they address themselves to the responsible body, say, the national funds for scientific research. Moreover, this is particularly vital for pure or original research, which is the true source of development, since it opens up new horizons, which are, by definition, often unexpected. Some people even say, maybe with some exaggeration, that it is only if we do not know what we shall find that we carry out true research.

Researchers must be able to choose in all freedom their research in their own field, that is, in the framework of the mandate for which they have been appointed. Hence, the competent authorities, when distributing funds, must be attentive not to hinder original and innovative initiatives, for example, those that are outside mainstream trends or off the beaten track.

This is why the terms ‘the search for truth *per se*’ are so important and are part of the very essence of the university *stricto sensu* — or at least in the



meaning I give it — and which differentiates it from all other higher education institutions and laboratories — even if they are at a high level — that have mushroomed in recent decades.

### **The role of research councils**

Concerning the academic freedom of researchers, there is a practice that, involuntarily but indubitably, causes indirect prejudice to this freedom and is, to a certain degree, of a nature that can prevent or hold up the most original research. It is the work — and one readily recognizes its necessity — of the various national research funds that distribute resources for research, but only in the fields they recognize or choose. This issue becomes even more acute when a large share of the available funds is allocated to purposes pre-selected on the basis of political decisions. The researcher who wishes to pursue or undertake research in an unfashionable field, one totally new or of no economic interest can thus sometimes be penalized and may even abandon his project to undertake ‘recognized’ research, which will help his career and advance his being ‘recognized’. Society can therefore deprive itself of outstanding contributions and new and original lines of development.

As was pointed out earlier, some believe that true research consists in searching without knowing what the findings will be. This may not be very attractive at first glance — and sometimes even after mature reflection — for donators, who must give account of the public and private funds available and therefore rightly play a role, which is both essential and delicate.

It is necessary and just as vital that academic and scientific authorities encourage and defend those cultural fields whose economic returns are low or non-existent — for example, the dead languages, including those of other civilizations. The same is even truer for historical research. In itself, historical research does not bring economic results and can entail troubles and dissent in the eyes of the public opinion or political authorities by questioning myths and traditions. We have, for instance, witnessed this recently in various countries, including mine — Switzerland. This is one of the missions of the university, which by its very mission is alone in being able to fulfil with the necessary independence and distance that opinions from different scholarly perspectives provide. This is vital to preserve civilization and to advance it.

To revert to the distinction between academic freedom and academic liberties, it is worth underlining that academic liberties — which, in my eyes, embrace university autonomy — are mainly historical in origin. They draw on specific rights and privileges, such as the custom — still often valid today — that without rectoral or presidential agreement, the police cannot in principle enter a university.



### **Academic freedom and human rights**

But there is another difficult but necessary area of inquiry. It involves trying to define exactly what characterizes academic freedom as opposed to freedom of speech and freedom of opinion, which are human rights. Precision is needed. A distinction should be drawn between these two concepts if we want to be useful, to help both public opinion and authorities understand the impact of academic freedom as well as its limits. We must base ourselves on the role of the members of the academic community, and very particularly of its teachers and researchers. Professors, teachers and researchers carry out research and teach at a high level because Society and the State ask them to do so and furthermore impose or should impose this on them as one of the responsibilities that they accept when they are appointed professor or researcher at university level. It is their specific duty. The State and Society created the university, or allowed its existence in its present form to enable it to fulfil one of its principle roles, that is, the advancement of knowledge to develop mankind and society, but not in the immediate or short term.

At the risk of being misunderstood, it could be said that we are talking about fundamental scholarship, which is not taken up with economic utility. Its purpose is not to develop a given object or element, but with advancing all knowledge. But the notion — or more specifically the impact of fundamental research — must be nuanced because everyone recognizes today that it is the main source of richness and development, as experience has shown. Such research almost always — and with the acceleration of science even more rapidly in our modern societies — leads to discoveries that are rapidly placed at the disposal of mankind and therefore at the disposal of society and individuals.

One must therefore analyze the dimensions within academic freedom and search out how it differs from the freedom of the individual researcher who works because he has pleasure in doing so, although he may be at the same or at a higher level than a university professor or researcher.

### **Academic freedom: right or duty?**

From my perspective, the answer appears to lie in the obligation the latter has incurred because it is his way of fulfilling his specific duty for which he is appointed by serving the community in this capacity. Therefore, he fulfils his duty — precisely the task for which he was appointed — only if he devotes himself to research and higher education with the necessary critical sense and openness of mind. This is also — but from a different standpoint — the difference that offsets researchers in university from those who are employed



by firms whether public or private, because, quite legitimately, the purpose of the latter is not the development of science or knowledge *per se*. It is research in their field, vast though it may be, but on condition it is useful and profitable for the firm that employs them.

Hence, for me, academic freedom is less a right than a duty and a duty towards Society. University researchers and teachers have a basic and specific duty to seek truth and speak it, that is, to advance knowledge. They have this duty and must assume it even though such knowledge may displease. They must therefore have a critical and open mind with no *a priori* towards what exists, what the majority or their colleagues think and claim. There is no better way to make science progress, to develop knowledge, in other words to seek truth and make it known. Truth as we construe it almost always evolves with the development of scientific knowledge, in the exact and natural sciences as well as in the moral sciences or the humanities. It is therefore — so it seems to me — never absolute but always relative, depending on the moment, but maybe also on the place where it is claimed.

Clearly — and to avoid any possible misunderstanding — I am alluding neither to religious truth nor more particularly to ‘revealed’ religions, even if today advanced research, for example, on the sacred Writings of Christianity teach us prudence and a little modesty even in this field (Küng, 1984). The question also arises with a certain acuity of knowing whether in the name of freedom of speech — but even more so of academic freedom — a researcher or a teacher has the right or even the duty to defend and propose rules that seem to violate or are or seem to be in contradiction with what is usually called — at least in the West — human rights. And, similarly whether Society can legitimately forbid the defence of propositions that, given the interpretation their author places upon them, depart from the sacred texts of a given religion, and more especially universal and widespread religions.

Let us, for a moment, return to the question examined before this parenthesis on revealed religions and human rights. If one acknowledges that academic freedom is not so much in the interest of the researcher and the teacher, but is in effect a condition necessary to their fulfilling their role towards society and mankind, then we also realize that its defence is not a form of corporate self-interest but is, on the contrary, the exercise of a duty in the service of society.

As a consequence, members of the academic community must be fully aware of the scope of academic freedom. They must realize that each time they try to use it more or less directly for their sole benefit they misuse it and divert it from the reason of its existence and justification. Academic freedom must not be invoked for trade union interests, for example, or for personal comfort or convenience, but only to enable members of the academic community to best fulfil their mission.



### **Freedom of opinion within the academic community**

One issue, which merits further development because it is unavoidable, is freedom of opinion within the academic community and the analysis of the right to defend heterodox opinions. This issue is even more important when set in the very framework of academic freedom. Researchers and teachers have the duty to defend their opinion or pursue their research even if they shock public opinion and the opinion of their colleagues because such views run counter to generally accepted ideas. Here, I would argue that freedom in this sense operates only when it enables one pursue one's activities without risk, even though they may hurt other people's deep and justified feelings. Freedom is not engaged if the sole purpose of such research and such opinions is gratuitous malice and are not founded on the wish to defend or find the truth.

We are obviously all rightly concerned and deeply affected by the problem of genocides and other crimes against humanity, to take one of today's burning issues. However, it is not generally speaking, the responsibility of the State and its tribunals in a democratic country to forbid and punish the expression of opinions, even if they may hurt others and seem unfounded. It may be added on this issue that in several so-called civilized countries, even among the largest, there are two sets of standards, depending on the political and economic requirements of the moment.

### **Academic freedom and revealed knowledge**

I am aware that I am touching here on a hotly debated issue and also on the duties which go with the obligations imposed by the sacred texts of a revealed religion and that in doing so I risk being misunderstood and may shock certain people. However, Democracy and Freedom, as I understand these concepts, require that one may defend one's point of view intellectually and scientifically if we think it is right, even if it may upset others. The scientific community and whoever disagrees with these statements must say so, must look into this and do everything in their power to prove the error and the inexactitude of the arguments that are opposed. Such a debate, conducted with the necessary scholarly rigour, can only be useful and clarifying.

The intervention of the State and its tribunals and a legitimate condemnation seem justified in my view only if one can prove that the author is aware of his mistake, of the inaccuracy of his argumentation and that he is *not* pursuing the progress of knowledge and the search for truth.

In this context, the issue of public order obviously arises and knowing how far its defence allows one to forbid the propagation and defence of opinions that run counter to the basic values of the civilization and culture in which they are expressed. It is not easy to settle this question and I have no ready made and univocal answer.



The need for pluralism is too great for the existence of a truly democratic society in the sense that I give to this term, for someone to be condemned for his opinions even if he may be wrong, provided these are expressed in good faith. The issue is different when there is a call — even an indirect call — for action against people or ‘races’, if one can use this word. This, in my eyes, justifies a criminal sentence.

With the risk of repeating myself, one must insist on the fact that there is only scientific progress, be it of exact and natural sciences or moral sciences and humanities, if one finds it right to be able to attack established truths, to try to show that they do not correspond to reality. The progress of science, and hence of ‘true’ truth according to the most advanced science at any given time, is forwarded at that cost, however great it may seem.

The problem, of course, is even more delicate for university researchers and teachers whose duty it is and for whom it is the only way to fulfil the mission for which they have been appointed and which stands as the heart of all their activities. In studying the present concept of academic freedom, one cannot leave aside that new element created by technology and its impact. One must indeed ask oneself if one can still speak of academic freedom in the specific sense as has been defined above. When the knowledge teaching conveys no longer has any real frontier, be it political, cultural, religious, social or economic. Who then can warrant and underwrite this freedom that is perceived as both a right and a duty? As we shall argue below, this new and still unexplored dimension is already with us, and perhaps even more markedly so in the domain of university autonomy.

Given present developments, this situation refers us back to the very concept of university and ought to draw the attention of society as a whole, the State, included. It should also draw the attention of the large international organizations to the importance of the existence of an independent institution necessary for Democracy, for the equality of all and for the disinterested development of knowledge.

## **University Autonomy Today**

University autonomy today is the degree of independence that universities must enjoy as an institution to best fulfil their role in higher education, research and the other services they render society. Here, one must be aware and accept with simplicity that very varied systems existed in the past and still exist today. This variation explains the considerable and essential differences that one observed — and still exist, for instance — between British and French universities. And, while remaining on this issue, one might add that France did not have universities in the strict and generally accepted meaning of the term



between the Convention of 1793 and 1896 (Renaut, 1995, 15, 29, 154–155). Last, and going beyond the written record, the Napoleonic influence on France greatly limited institutional autonomy. Similarly, the autonomy of German universities after the creation of the University of Berlin by Humboldt in 1808, and whose influence was mentioned earlier, was different yet again. These variations merit consideration if one is to make judgement on the importance and value of autonomy to the universities.

### **A variable condition**

The degree of autonomy present in different systems is, therefore, stated simply and without *a priori*, that which is useful or even necessary for the institution to best fulfil its mission. It depends, or at least largely depended, on national traditions and the relations of relative conflict or trust with governments and society (de Boer, 2002, 43–61). Among the factors to be taken into account are whether the university system of a given country is centralized or decentralized, for example, in Germany and Switzerland or France; whether the universities are public, instituted and formally dependent on the State, if they are private or whether both systems coexist in the same country.<sup>13</sup>

Many studies have focused on the different aspects of autonomy. A few years ago, in an unpublished doctoral thesis in philosophy at the University of London, its author (Li-Chiang, 2000) distinguished between the following fields: academic affairs, staff recruitment, finance and governance. Others have drawn the line between procedural and substantial autonomy (Berdhal, 1991). Yet, one issue that deserves further work within the overall setting of university autonomy, and which also has direct bearing on academic freedom, is accountability — that is, being called upon to render accounts to the State, to the supervisory authority and by extension to Society, though this is not always the same thing. There is, of course, a basic distinction to be made between financial accountability, which has to be highly detailed, subject to very strict control — and is both necessary and indispensable for reasons of honesty and prudence — and the freedom necessary for the institution to judge what is justified and necessary at the teaching and research level, given the mission and role of a university.

According to this second hypothesis, the university must enjoy extended and protected freedom from the interventions of the State and all other social agents, the State having nevertheless to intervene in the latter instance to protect the university and ensure its relative independence from those who attack it.

By definition, the university, if it is worthy of that name, knows better than the public in general, the State, its civil servants and even those elected by the people, how to carry out its work for the greater good. This freedom should be



almost complete in the everyday execution of its tasks. It would be absurd for a non-specialized civil servant to tell an experienced fire-fighter how to use his equipment during a blaze, just as it would be absurd for non-specialists to impose their methods and ways of teaching on a qualified teacher, recognized as such by his peers; or, to take another illustration — no less absurd but more provocative — that a non-specialist who, because elected through the ballot box and thus enjoying a measure of public authority and standing should barge into an operating theatre to tell a highly-skilled surgeon how he should proceed.

These examples may seem extreme, extravagant — or both! But they are not greatly dissimilar from the situation whereby parliamentarians, a member of the executive or a civil servant see fit to tell qualified teachers and researchers what they must do or how they should do it. The issue is more broad-ranging because, at institutional level, it extends to the subjects to be taught, examinations, student admissions, appointment of teachers and researchers, appointment of university heads, to quote but a few elements essential for the quality of a university. One could also add the organization of its heritage and its endowments.

### **The swelling temptation to intervene**

All these activities affect both academic freedom and university autonomy. Indeed, one cannot pass over the fact that, to an increasing degree, the State — acting like the economy which, with its research contracts or the funding of chairs — risks orienting the university more and more towards cost-effective or fashionable fields. In acting thus, the State partly suppresses, even without necessarily wishing to do so, freedom of choice. It no longer allows the university and researchers to freely determine their field of teaching and research. Furthermore, this trend is accentuated by the existence of priority fields or the creation of poles of excellence chosen by another authority.

### **Competition and contemplating the prospect of perverse effects**

At first glance, it seems that a certain justifiable satisfaction is in order at least for these initiatives that are based on competitiveness and on excellence.

But measures of this sort can turn out to be dangerous in the long run because only selected fields obtain funding and with it the necessary prestige to train and attract not only the best researchers and teachers, but also the best students. The universities *nolens volens* find themselves in this situation obliged to re-direct their choices and activities in selected scientific fields by giving others up or at least subjecting them to benign neglect.



Such decisions, even with the best intentions, show that political authorities or their scientific handmaidens can harm both university autonomy and academic freedom and hence undermine the ultimate purpose for which universities were created and exist. The upshot of these measures is that whole sectors of science can be gravely affected and the balance necessary for the development of knowledge, upset. Researchers and teachers are urged towards recognized fields of promise in terms of financial reward and scientific prestige. The remaining disciplines may pass for poor relations. And universities, which see the danger of ‘falling from grace’ and dropping in the ranking of university league tables if they do not use the funds the State, its services and the business world make available for scholarship and inquiry, may easily leave aside those fields that are not cost-effective and no longer have the necessary freedom — vital nonetheless— to carry out their main purpose which is the reason of their being.

### **Those of no fixed abode and institutional autonomy**

But before concluding, there remains but one more question and it is fundamental. It is this: are these reflections, as they have been formulated here, still valid and decisive? Is their relevance intact, given the technological advances and the new institutions, which clustering around information and communication technology, exist *de facto* if not always *de jure* and not only escape from all state authority, but also, given the state of society, from all international authority?

Whether we like it or not, Autonomy — which cannot be, nor should it be — complete independence given the responsibility of the university — moves into a new dimension when an institution no longer acknowledges any form of fixed residence. The issue of autonomy becomes even more pressing when it is recognized that the new communication technologies on the one hand and that, on the other, certain universities or other species of higher education institutions are multi campuses, and at the same time, multi-national, scattered across various regions of the world.

When one considers that a ‘virtual university’ may as well be a totally delocalized institution or more exactly, a non-localized institution, thus slipping between all authorities, the question of autonomy becomes even more essential, not least for the State and very certainly for the academic community. Paradoxically, the situation that may arise from this state of affairs would be the very contrary of autonomy. Academic freedom as an authentic and abiding value would have as its *Ersatz* the mere law of the market.

Arguably, only an international — even universal — authority would be able to ensure autonomy, a latter-day replication, much overhauled of course, of what Pope and Emperor once did, — or were supposed to do — though



very imperfectly, for a particular moment in the history of Western Christendom.

Knowing what this authority ought to be and how it should be drawn up such that its role is both guaranteed, its independences upheld and protected from influences that bear down from outside and often threaten the role that ought to be its own, regardless of whether those influences are political, religious, cultural, economic or of another sort, remains a question both essential and most certainly one that is difficult in the extreme to resolve.

Society, the State — or a particular authority on the lines we have suggested, if the latter no longer has the credibility to do so — must have charge of oversight of the university. For while they must respect its autonomy and academic freedom, they are also obliged to ensure both autonomy and freedom vis-à-vis other social agents, whosoever they may be. Here, once again, one sees the close and indissoluble ties that exist *de facto* between academic freedom and university autonomy.

## Conclusion

The concepts of academic freedom in the singular and university autonomy, although they can be grasped at the theoretical level, are extremely difficult to define and implement at the practical level. Yet, they are essential and must be defended if we want the university *stricto sensu* to survive. This is necessary to avoid the dictatorship of a given political system, of a superpower and, today no less, the hegemony of the economic world and the large multinationals, more powerful than many countries.

The latent, but oft open, conflict of the university with political authorities and particular interests, be they religious, cultural, economic, etc is ever-present and, in the long run, may well be desirable. To the issue of academic freedom and university autonomy, there can be no definite and permanent solution.

In analyzing these two issues, my purpose was not to seek water-tight definitions or to advance absolute truths. Rather, it was to raise certain questions that are a burning issue today, were smouldering one yesterday and happily will return to that condition tomorrow. I have offered these reflections on the importance and value of these twin concepts. Their role, I believe, is essential for the future, not just for the university, but also for Society as a whole.

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## Notes

- 1 In this text, the terms: students, professor, researcher, man, etc. are generic irrespective of whether they are women or men.
- 2 See for example, in the UK, the *Academic Freedom Amendment to the Education Reform Bill* of Lord Jenkins of Hillhead of 19 May 1988: 'The freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges they may have at the institutions', quoted by Conrad Russell (1993) *Academic Freedom* (London, Routledge).
- 3 See the different declarations published in 1995 by CEPES (European Centre for Higher Education, Bucharest) *Academic Freedom and University Autonomy: Two Perspectives*. Declarations made subsequently on this topic are numerous.
- 4 IAU was created under the auspices and at the suggestion of UNESCO in 1950 See, for instance, Georges Dailliant (1990).
- 5 In this respect UNESCO took a positive — although general and not specific — stand on the issue in items V and VI of the *Recommendation concerning the Status of Higher Education Teaching Personnel*.
- 6 However, those interested may wish to consult the 4-volume study edited by Walter Ruegg and Hilda de Ridder Simoons, *The History of the Universities in Europe*.
- 7 Suppressed by the Convention in 1793, universities were only formally re-established in France in 1896.
- 8 On the University of Berlin and its influence, see among the innumerable books and articles the article that was recently published by Nybom (2003).
- 9 One must quote John H. Newman (1852) but also John Stuart Mill and Thomas Henry Huxley for the United Kingdom, more particularly Rothblatt (1997).
- 10 I would like to thank Guy Neave who drew my attention to this difference concerning these two colleges of the University of London — the latter was officially founded in 1836.
- 11 For the evolving relationships between University and State and the differences in these relationships according to the nature of the various States and their conception of the role of the University, see the exhaustive study of Neave (2001) *The European Dimension in Higher Education: An Excursion into the Modern Use of Historical Analogues*.
- 12 In this context, another question is posed in similar, but even more subtle terms. Should 'academic' freedom also concern a candidate for his first appointment in the academic community when he is not yet a member of the institution? The answer is not easy and depends on many things, because one must take into account both the rights of the candidate and the freedom of the university.
- 13 See note 11.

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