Reimagining Academic Freedom: An Introduction

Dang, Q. A., Matei, L. & Popovic, M.

Published PDF deposited in Coventry University’s Repository

Original citation:

DOI 10.3726/PTIHE.022023.0209
ISSN 2578-5753
ESSN 2578-5761

Publisher: Peter Lang AG

The online edition of this publication is available open access. Except where otherwise noted, content can be used under the terms of the Creative Commons Attribution 4.0 International License (CC-BY 4.0). For details go to http://creativecommons.org/licenses/by/4.0/
Reimagining Academic Freedom: An Introduction

QUE ANH DANG
COVENTRY UNIVERSITY

LIVIU MATEI
KING’S COLLEGE LONDON

MILICA POPOVIC
CENTRAL EUROPEAN UNIVERSITY

Reimagining Academic Freedom: Why and How?

Is there a need to reimagine academic freedom? Does it happen? Where and how? As guest editors of this special issue, we have enjoyed the challenge of curating a set of papers under the theme of ‘reimagining academic freedom’. By ‘reimagining’ we refer to an act of imagining again and anew, more precisely to develop new conceptualisations and codifications of academic freedom (AF) from different perspectives. Because academic freedom is a necessary precondition to sociological imagination that challenges and defies the status quo, we also employ the concept of ‘social imaginary’ as a framework for understanding academic freedom and its multiple facets. Here ‘social imaginary’ refers broadly to the organising structure of shared understanding of academic freedom that makes legible or illegible certain relationships and practices within a given community. Social imaginaries can also organise social relations on different scales (e.g. national, regional, global), circumscribe the questions deemed worth asking and delimit the answers considered viable or

1 Boden and Epstein, ‘A Flat Earth Society? Imagining Academic Freedom.’
2 Castoriadis, The Imaginary Institution of Society; Taylor, ‘Modern Social Imaginaries.’
valid, they, thus, link present conditions to future aspirations.\(^3\) As the authors in this issue argue, imaginaries also remount to all that has not been, to the unexpressed potentialities, to the reservoirs of the future – in term of the virtuality of action – that the past holds in its folds (see Pinto & Zellini, this issue).

Focusing on the reimagination of academic freedom in the past two decades, this special issue re-examines conceptual understandings of academic freedom in relation to forces from within and outside the academic community that constrain or further academic freedom in new ways. Here the ‘academic community’ is defined as academics, students and other staff teaching, researching and/or studying at higher education institution, exercising their academic freedom in learning, teaching, research, university outreach (including dissemination of research) and university governance.

The purpose of this special issue is to investigate:

- Why is it necessary to reimagine academic freedom?
- What does ‘reimagining of academic freedom’ mean in a changing context within and outside academia?
- How does the process of reimagining happen in contemporary intellectual debates, in public policy and regulatory realms and in the practice of higher education? At what level and scale (e.g. individual, institutional, national, regional, global)?

The four papers in this special issue address these questions from different but complementary perspectives. They have been selected from a larger number of submissions in response to the PTHE call, which was inspired by the theme of the virtual international conference\(^4\) in January 2022 organised by the Open Society University Network’s (OSUN) Global Observatory for Academic Freedom (GOAF) located at the Central European University (CEU) in Vienna, Austria. Established in March 2021 in the wake of the Lex CEU affair,\(^5\) GOAF has a global scope of work, and it is probably the only organisation worldwide that advocates openly and programmatically for research on ‘reimagining academic freedom’. GOAF initiated its own research projects on the topic and commissioned other studies in various parts of the world. Operating as a network organisation, GOAF has been active, mainly in Europe for the time being, in applied policy research aiming at safeguarding

\(^3\) Stein and De Oliveira Andreotti, ‘Higher Education and the Modern/Colonial Global Imaginary.’

\(^4\) GOAF, ‘Reimagining Academic Freedom Conference January 2022.’

\(^5\) Szabó, ‘The Clash of Realities Behind the CEU Affair.’
Reimagining Academic Freedom: An Introduction

Reimagining Academic Freedom by putting forward, designing and implementing new codifications, regulations and monitoring mechanisms. Its work aims to shape a facet, tangible and concrete, of reimagining academic freedom.

Although not all papers selected for this special issue were presented at the conference, they all contribute to the inquiry promoted by GOAF and aim to (a) stimulate a debate on competing concepts and current practice of academic freedom, (b) connect global scholars and interested stakeholders and (c) reflect upon possible ways vital to the ‘preservation of academic freedom’.  

A novelty of this special issue is the attempt to reimagine academic freedom beyond merely the ‘preservation’ of what it is, or was thought to be in older times. The authors challenge the current concepts and critically examine practices of academic freedom, including in Western democracies. They ask critical questions concerning epistemology, conceptualisation, public policies, regulations and practices. For example, how to distinguish critiques from infringements of academic freedom? How can situated-epistemology configure the conceptualisation and codification of academic freedom as well as incipient efforts to reimagine it? To what extent have pedagogic self-governance and freedom to teach been constrained by the policies made before and during the Covid-19 pandemic? How can ‘academic difference’ (in the form of resistance) turn the dereferentialised condition of the contemporary university from a loss into an opportunity?

The study of reimagining academic freedom requires articulating a multiplicity of perspectives across academic fields, from history to political sciences, from sociology to philosophy and from legal studies to anthropology, as illustrated in the papers in this special issue. The authors also propose new ways to reimagine academic freedom both within and without the academic community. These theoretical and practical proposals are, in essence, our imaginaries which are neither purely ideational nor material, but rather occupy ‘a fluid middle ground between embodied practices and explicit doctrines’. They provide conceptual references that expand and enhance the understanding of academic freedom, thus triggering fundamental changes. This attempt is original and hopefully significant because very few scholars emphasise the need to reimagine academic freedom, or study this process where it happens. Many acknowledge challenges to academic freedom, but very few would agree those challenges are unprecedented, or that reimagining academic freedom

---

6 Popovic, Matei and Joly, ‘Changing Understandings of Academic Freedom in the World at a Time of Pandemic,’ 5.
is widely and urgently needed. They view it along the line of ‘we should use what we already have to oppose those forces that constrain academic freedom in various ways’ (as in the cases in Hungary\(^8\) and Florida\(^9\)). What is important, many say, is to educate all those concerned about the existing conceptual, legal and regulatory references of academic freedom and to implement them, using existing monitoring tools and enforcement levers (where they exist at all), rather than dreaming about new ones. That view, we argue, at its best could only help reimagine academic freedom in a restrictive and regressive way.

There are different factors and dimensions of reimagination and reconceptualisation, such as different contexts, scales, changes of direction or focus and relationships between several dimensions, or adding new dimensions when asking: what kind of entity is academic freedom (a human right, a fundamental right, a governance principle, or a value)? Or a combination of them? How to link different scales (global/universal, regional, national, institutional levels; supra-national, inter-governmental, inter-institutional)? In this editorial, we highlight some of the reasons for reimaging new ways of conceptualising, codifying and also practising academic freedom. More in-depth analyses are in the individual papers.

**Reimagining Academic Freedom at Scale**

At the global level academic freedom has predominantly been conceptualised as a fundamental right\(^{10}\) which depends upon a range of civil, political, economic, social and cultural rights.\(^{11}\) The United Nations’ (UN) first report on academic freedom released in 2020 confirms that there is no single, exclusive international human rights framework for academic freedom.\(^{12}\) Similarly, the 2016 report “Measuring” the Erosion of Academic Freedom as an International Human Right: A Report on the Legal Protection of Academic Freedom in Europe’ also points out that the right to academic freedom, as such, is not protected in the two UN human rights covenants – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant

\(^{8}\) Kende and Puskas, ‘Introductory Note to the Case C-66/18 Comm’n v. Hungary (C.J.E.U.).’
\(^{9}\) Altschuler and Wippman, ‘Florida Is Trying to Roll Back a Century of Gains for Academic Freedom’; AAUP, ‘Special Committee to Report on Academic Freedom in Florida.’
\(^{10}\) Vrielink, Lemmens and Parmentier, ‘Academic Freedom as a Fundamental Right.’
\(^{12}\) Kaye.
on Economic, Social and Cultural Rights (ICESCR) usually referred to in this context. While these two international laws (1966) largely touch the surface of academic freedom and institutional autonomy, the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) contains various provisions that address aspects of academic freedom. UNESCO’s Recommendations may reflect an international consensus at least at the time it was adopted, but they are not legally binding. They have a normative character in their intent and effects. The reality of global challenges to academic freedom coupled with the ineffective global legal framework for protecting academic freedom is a rationale for reimagining its conceptualisation. And some work is underway to refine this global framework.

Another way of doing so is to look at regional frameworks since the understanding and practices of academic freedom vary across the world due to variations in history, political cultures, knowledge production traditions, education systems and state-university relations. While the attacks on the integrity, life and work of scholars and the open disregard for academic freedom might be an everyday life event in the authoritarian contexts from state actors, in democratic countries, the attacks and infringements on academic freedom often appear in the name of protection of that same academic freedom. For example, Asia has its own challenges and unique characteristics, such as threats to academic freedom have been prosecuted in ways that help preserve academic prestige in some areas, even as basic freedoms are denied in others. In other words, academic freedom in parts of Asia appears to exist as a piecemeal offering granted to some disciplines and topics but not to others.

Europe also has its unique regional characteristics and there have been new imaginaries of academic freedom in recent years. The European Higher Education Area (EHEA) adopted a common definition of academic freedom in 2020; the European Research Area has strengthened its support for freedom of scientific research; the Parliamentary Assembly of the Council of Europe adopted a resolution on ‘Threats to academic freedom and autonomy

---

13 Dang and Kamibeppu, ‘Curbing University Autonomy and Academic Freedom in the Name of Quality Assurance, Accountability and Internationalisation in East Asia.’
14 Gueorguiev, ‘Introduction: Progress under Threat Academic Freedom in Asia.’
15 Gueorguiev.
of higher education institutions in Europe’ in 2020; Magna Charta Universitatum has also updated their charter;\textsuperscript{18} the European Court of Justice has called upon the Charter of Fundamental Rights of the European Union and the General Agreement on Trades and Services in its verdict against the Government of Hungary in relation to the expulsion of the Central European University by the regime of Viktor Orban.\textsuperscript{19} A strong common rationale behind all these new imaginaries in Europe is that existing concepts are outdated and inadequate for the new realities, such as the Europeanisation of higher education (beyond just the European Union), new impacts of geopolitics on higher education and academic freedom, new ideologies, political narratives and political evolutions (neo-nationalism, varieties of populism, democratic backsliding, etc.).

Two papers in this special issue examine the region-wide crisis of academic freedom and new developments in Europe. Matei assesses the new conceptualisations and codifications of academic freedom that emanate from the sphere of politics and public policies outside the academe, whereas Pinto and Zellini focus on the ‘method’ and ‘resistance’ from within the academe in response to the external conceptualisations. Some of these new conceptualisations (e.g. the 2020 Rome Statement on Academic Freedom), as discussed by these authors, are meant to be better adapted to current realities and, in this way, to help safeguard academic freedom. Others (e.g. 2011 constitutional amendments in Hungary) can be an expression of new political trends (populism, neo-nationalism) that constrain academic freedom. Even the European Open Access publishing principle (e.g. all research that is publicly financed should be openly accessible) can pose a potential threat to academic freedom if it hinders the freedom researchers enjoy to choose their preferred channels of publication. Apart from the financial constraints, open access publishing might cause a danger that the principle of academic freedom is overused and abused to support the growing culture of fast, hostile and superficial critiques of research\textsuperscript{20} that are not conducted in line with principles of open, transparent science. Thus, reimagining academic freedom through re-conceptualisations and, occasionally, new codifications illustrated in these examples could be a Janus-faced approach.

\textsuperscript{18} Magna Charta Universitatum. 2020. \url{https://www.magna-charta.org/magna-charta-universitatum/mcu2020}

\textsuperscript{19} Case C-66/18, Comm’n v. Hungary, ECLI:EU:C:2020:792, 69–71 (October 6, 2020)

\textsuperscript{20} Whitaker and Guest, ‘#bropenscience Is Broken Science.’
Reimagining Academic Freedom from within Academe

Other challenges that trigger the need for reimagining academic freedom, appear to be not only empirical but also theoretical. Some under-explored questions are, for example, what kind of entity academic freedom is and how it should be codified. If academic freedom is conceptualised as a human right, such right and its protection should be universally applicable, but this conceptualisation does not always work in practice. Academic freedom as a human right is a useful reference in the context of protecting that right from extreme infringements, often from outside academia, such as in the situation of war, repression or state actors’ violence, but this reference may not be used in the context of a dispute between individual academics or between university administrators and academics in a well-established and autonomous research-intensive university. Other scholars argue that academic freedom is a responsibility, not a right. It is to speak truth to power; to honour the liberal university goal of working for the public good; and for the publicly funded university, in particular, to act in the public interest. Therefore, a reimagining of academic freedom in another frame of reference is necessary. The paper of Maria Kronfeldner (this issue) ‘On How to Distinguish Critique from an Infringement of Academic Freedom’ introduces an important theoretical discussion focusing on forms of existential threats to academic freedom that emerged within the academic community, meaning that members of an academic community can infringe on each other’s freedom.

To re-conceptualise academic freedom, it is important to distinguish an academic critique from an infringement of academic freedom. In order to have a well-functioning principle of academic freedom, academic critique should not be confused with ‘censorship’ or ‘cancel culture’. She also posits that a critique – as a constitutive form of intersubjective and intellectual engagement in academic knowledge production – is academic only if academic standards are appropriately used to develop it. In her paper, academic standards include general or field-specific methodological standards and criteria used to delineate good from less good argumentation, and general rules of good scientific practice (to prevent scientific misconduct such as fabrication or falsification of evidence, plagiarism and the like). Hence, in her view, academic critique should be encouraged and protected in accordance with the principle of academic freedom, rather than being silenced by it.

She proposes three conditions on which an intervention can be classified as an infringement of academic freedom and not as an academic critique. To determine such an infringement, all three conditions below must be met.
(Condition 1) *The intellectual and open affair condition*: An intervention is an infringement of academic freedom only if it relates to an intellectual affair that is open to critical debate. Two key elements here are that the intellectual affair must be of *academic nature* and *open* to critical treatment. This condition helps to distinguish academic freedom from freedom of speech (e.g. expressing political or religious standpoints), other human rights and intellectual freedom. Academic freedom is quite restricted; it does not concern just everything that is intellectual.

(Condition 2) *The active and concrete limitation condition*: ‘An intervention of a member of the academic community with respect to another member is an infringement of academic freedom only if it involves an actively imposed and concrete limitation for that other member of the academic community to the access to academic resources’. Her example explains ‘an actively imposed and concrete limitation’ as a denied access to a resource of academic research (e.g. a journal, a platform, a grant, a position) in a rather narrow and materialistic sense. She argues, when a racist research paper was not retracted, no event was cancelled, no funding was withdrawn, no employment was impacted, there is no ‘actively imposed and concrete limitation’, even though reputation went down since the critique was academically justified and effective. However, she acknowledges that there are borderline cases that are hard to judge, and that is why a closer look at this second condition is necessary.

(Condition 3) *The absence of justification condition*: An intervention is an infringement of academic freedom only if the resulting concrete limitation is *not* justified. She changes the argument from whether ‘a critique’ is justified to whether ‘a limitation’ is justified. A rejection or retraction decision from a specific journal may limit the author’s freedom (to publish *that* paper in *that* journal) but if that limitation is justified it is not an infringement of the respective author’s academic freedom. For an imposed limitation to be an infringement of academic freedom, it needs to be the case that the limitation is not justified, such as in the case of a deep agreement or abuse of power.

She also points out that the contemporary academic world is not solely structured according to disciplines, which are individuated via methods. More and more academic work is organised around specific problems rather than disciplines or methods. These problems also demand diverse methods and academic standards which, in turn, may lead to deep disagreement and influence
how academic critiques are developed and justified. She suggests, in such case, the effective way is to continue arguing about the relevant ethical and academic standards, meaning to engage in fundamental critique.

Here the division of internal and external forces that constrain academic freedom is only for analytical purposes. In practice, it is not always easy to define the demarcation between them because external interventions (e.g. funding mechanism, university rankings, etc.) change practices (e.g. precarious employment, performance metrics, etc.) within the academia, give way to new forms of infringements and radically reconceptualise academic freedom.

**Charting a Course for Academic Freedom in Europe**

The report “‘Measuring’ the Erosion of Academic Freedom as an International Human Right”\(^{21}\) concludes that the state of the legal protection of the right to academic freedom in Europe appears to be one of ‘ill-health’. Increasingly, European countries are merely paying lip service to this important right. The contemporary context in Europe is coloured by Brexit, Covid-19 global pandemic and the war in Ukraine, alongside longer-term processes of further neoliberalisation of higher education and increasingly precarious working conditions of scholars. Many current geopolitical tensions accentuated the tensions between science diplomacy, academic freedom and international cooperation in education and research within Europe and between Europe and other continents. Therefore, the need to reimagine academic freedom arises.

Liviu Matei (this issue) reviews the predicaments of academic freedom in Europe in the past two decades and highlights the distinctive regional characteristics and crisis of academic freedom. He argues that the Europeanisation processes through the Bologna various instruments, such as standardising degree structures, the European model of PhD education, the European Credit Transfer and Accumulation System (ECTS), the European quality assurance standards and guidelines, the European University Autonomy scorecard, have largely neglected academic freedom. Consequently, there has been no conceptual reference for academic freedom within the new EHEA during its first two decades of existence. The absence of such European reference of academic freedom has contributed to a situation of crisis when major

---

upheavals broke out, such as the 2016 coup in Turkey, and the Central European University affair in Hungary in 2017.

Adopting the ‘situated epistemology’ approach, he studied how relevant situated actors think about higher education and science in general, about academic freedom in particular, in the European regional context. In practical terms, he evaluates several regional initiatives as responses to the crisis of academic freedom undertaken by policy makers, national and regional higher education professionals and bureaucrats from European organisations. Although most of them are non-university actors, he argues that their understanding influences how academic freedom is codified, regulated and practised in Europe. For example, the ministerial bureaucrats and regional experts chose to frame academic freedom as part of ‘the fundamental values of the EHEA’ and not as a human right or fundamental right that would require an amendment to the European Constitution. Interestingly, he pointed out that framing academic freedom as a legal right would have been tactically self-defeating in an effort to put forward a common European conceptual reference for academic freedom. Furthermore, the choice to define academic freedom as a value in the Rome Ministerial Communiqué (2020) was based on political and pragmatic reasons – that is to obtain a consensus of all EHEA members in the wider European context where a broader discussion about values was taking place already.

He also critically analyses a few regional initiatives as responses to the crisis, such as the Academic Freedom Index (Afi) and the European Autonomy Scorecard which are used as new measuring tools for governance and they exert adverse effects on the conceptual understanding and practice of academic freedom in Europe. Similarly, the 2020 Bonn Declaration on Freedom of Scientific Research adopted in 2020 by the ministers responsible for research of the EU member states, focuses narrowly on freedom of scientific research, excluding freedom of teaching and learning in higher education. In his view, this Declaration will have the potential to protect research freedom only if a set of formalised indicators monitoring compliance and corresponding financial sanctions are applicable to the member states. That might provide a fertile ground for infringements on academic freedom in the name of protection of it.

In sum, although academic freedom was nominally acknowledged as a key pillar of the Bologna Process, EHEA and European Research Area, it remained an underdeveloped regional project.
Reimagining Academic Freedom in the Digital Age and Pandemic Crisis

The Covid-19 pandemic has disrupted all levels of education around the world. At the higher education level, many studies focus on the well-being and mental health of staff and students, online learning and technology, student experience, disrupted research and curtailed international mobility, but little is known about the impact of the pandemic on the freedom to teach at universities. Bruce Macfarlane’s paper ‘The Impact of Covid-19 and Pandemic Policies on the Freedom to Teach’ (this issue) elucidates many reasons for new imaginaries of academic freedom. He emphasises that the freedom to teach or ‘pedagogic self-governance’ is one of the most under-researched forms of academic freedom. Macfarlane thoughtfully lays out the development of several phenomena that constrain the ‘pedagogic self-governance’ of university teaching staff.

– The shift to a ‘student-centred’ teaching approach with the new language of learning as opposed to teaching or education. This shift has been referred to as ‘learnification’ which arguably diminishes the authority and power of the university teacher and undermined their expertise.

– Platformisation increasingly dominates the design and implementation of university teaching and poses risks inasmuch that it hands the power to large corporations (e.g. Coursera) concerning the design of tools which dictate how academics organise and present their learning materials. The advance of EdTech, especially as a result of Covid-19, has further increased the dependence of teaching activities on the possibilities (and constraints) of learning platforms. These are designed by learning technologists and not by university teachers.

– The move to an online teaching mode has led to the so-called ‘streamlining’ of the curriculum and assessment, ‘chunking’ or ‘slicing up’ of lectures into bite-size segments.

The Covid-19 pandemic is cast in all examples (drawn mainly from the UK, Australia and Canada) as an accelerant to the above pre-existing phenomena in which university teachers’ self-determination of teaching and the curriculum is eroded. Instead of viewing these phenomena as threats to the ‘old’ academic freedom, there is a call to question the relevance of that concept in the digital age. Indeed, the critiques in this paper make a strong case for new conceptualisations of freedom to teach.
The author also notes ‘this is a once in a hundred-year chance … to streamline universities’ antiquated structures’. The same invitation should be relevant for reimagining the old ‘pedagogic self-governance’.

**Reimagining Academic Freedom in Liberal Democracies**

It is possible to identify several common trends in the conceptualisation of academic freedom in liberal democracies around the world. One of them is the tendency to misconstrue academic freedom as freedom of speech. Another common trend appears to relate more directly to the instrumental or technical implications within academia (academic freedom as a pre-condition for the production, transmission and dissemination of knowledge). A third trend relates to the political relevance of academic freedom as a tenet of democracy. Pinto and Zellini (this issue) observe that the recent complex political developments in European liberal democracies have led to a situation where we have lost sight of what academic freedom really means or should mean. This is another reason to reimagine academic freedom.

Pinto and Zellini’s paper addresses the relationship between democracy and academic freedom by tracing the transformations of higher education in European liberal democracies, that is within the socio-economic dynamics of late capitalism and the ways academic freedom has been conceived over the last thirty years. Drawing on a genealogical re-reading of the original idea of academic freedom, the authors analyse changes in the conceptualisation and codification of academic freedom at the intersection between the dominant and evolving philosophical position and political activism. In Europe, the concept of academic freedom was traditionally inspired by the Kantian-Humboldtian principle of the necessary distance of the university from society (‘freedom and isolation’). However, in the new context, this model has increasingly been supplanted by the neoliberal imperative of the ‘tuning’ between university and society. This clash of ideas can be seen between the 1988 ‘Magna Charta Universitatum’ and the path taken by the European Union. They posit that reimagining academic freedom in the complex relationship between university and society is to establish a method, that takes the form of ‘critical reflections’ or/and ‘resistance’.

**Epilogue**

We trust that this special issue pursues the valid questions of why and how new imaginaries of academic freedom are necessary and are emerging. A related key question is how to study this phenomenon. The authors in this
issue have drawn on methods of different disciplines, such as philosophy, sociology and political science and used mixed epistemological approaches. For example, the situated epistemology of academic freedom – that is to study the meaning-making processes of situated actors in a given socio-political setting (e.g. EHEA); the genealogical approach – that has as its authentic core an imagination productively oriented towards the future, towards ‘the new’ in a privileged sense because it is inventively directed towards the past. This approach is based on an ontology that there is an as yet unexhausted surplus of future in the past, although genealogy has no restorative will. Despite its modest scope, this special issue aims to stimulate the debate and inspire new studies in different parts of the world. We also hope to see more novel methodological approaches to studying this novel phenomenon.

Acknowledgements

The experience of working with nearly twenty external reviewers on curating and selecting papers for this issue has brought us many interesting scholarly dialogues which we gratefully acknowledge. We would also like to thank all the authors who have submitted papers. Whether your papers have been selected on this occasion or not, we believe that you all appreciated the intellectual conversations and helpful feedback in the process.

We also thank the journal editors John Petrovic and Ben Ray for their kind support.

References


