

Academic freedom: normative ideals, contemporary challenges

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Abstract There is broad agreement within both science and society about the value of academic freedom. There is disagreement, however, about which forms or degrees, if any, of political and moral regulation might harm or benefit science. Academic freedom, just like free speech in general, has turned into a contentious issue within society as a whole. Competing ideas about science and its social functions, as well as the norms of justice and legitimacy, are debated.

Keywords censorship · Academic freedom · Freedom of speech · Scientific ethos · Academic discourse culture

Wissenschaftsfreiheit: Normative Ideale, aktuelle Herausforderungen

Zusammenfassung Über den Wert der Wissenschaftsfreiheit herrscht innerhalb der Wissenschaft wie auch der Gesellschaft weitgehend Einigkeit. Uneinigkeit besteht dagegen bezüglich der Frage, ob und welche Formen, gegebenenfalls auch welche Grade der politischen und moralischen Steuerung der Wissenschaft zuträglich oder schädlich sind. Unterdessen hat sich Wissenschaftsfreiheit, ebenso wie die allgemeine Meinungsfreiheit, zu einem gesamtgesellschaftlichen Konfliktthema entwickelt. Hierbei werden sowohl konkurrierende Vorstellungen von Wissenschaft und ihrer gesellschaftlichen Funktion als auch gesamtgesellschaftliche Normendiskurse um Gerechtigkeit und Legitimität verhandelt.

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1 The public debate

There is broad agreement within both science and society about the value of academic freedom. It is also agreed that the freedom of science and research from the state's interference is to the benefit of the scientific striving towards truth and insight. The autonomy of science—i.e., the freedom to search for knowledge—is necessary for finding significant truths; for understanding, explaining, and justifying natural and social phenomena and processes; the development of adequate theories and their practical application. There is disagreement, however, about which forms or degrees, if any, of political and moral regulation might harm or benefit science; what counts as an extra-scientific (“political”, “moral”, “ideological”) amendment; and whether academic freedom is actually threatened and harmed in individual cases.

The public debate about academic freedom does not so much concern its restriction or violation by state actors—which has been a constant since the beginnings of science (Daston 2019)—nor the current worldwide increasing tendencies towards autocratization (Spannagel and Kinzelbach 2023; Kinzelbach et al. 2024). It rather concerns “softer” ways of social influencing, a tyranny of the majority or, alternatively, a tyranny of strangely powerful minorities that allegedly leads to perceived or real restrictions on science, including sanctions against, and the self-regulation of, free speech and academic exchange at universities, conferences, and academic communication. Evidence of this are retracted invitations, calls for boycott, preventing events from taking place, campus occupations, threats and denunciations against academics, sanctioning concepts and dismissing works, contents, and traditions because of political or moral flaws. It is claimed that—just as with cases of state control, censorship, and coercion—these practices of scandalization and “cancelling” jeopardize academic freedom and discourse culture, and hence the thriving of science in general (Downs and Surprenant 2018; Scott 2019; Özmen 2021; Borsche 2023; Sunstein 2024).

Academic freedom has become an issue of conflict for the whole of society, because the freedom of research, teaching, and speech goes far beyond academia. This debate, which involves academic institutions and their political affiliations, officeholders, and individuals, but also media, journalists, book publishers, activist groups and self-declared *free speech warriors*, started in the US, but has been smoldering in Germany for several years now too. The high number of contributions in the press, radio, and social media about the “politicization” and “moralization” of academic freedom shows the great public interest in potential dangers to a free science and academic debates.

In what follows, I will put forward some remarks and claims concerning the current debate about academic freedom. I am convinced that we can better understand this debate and the extra-academic interest in it, if we see it as a dispute about the conditions for *successful* science. Academic freedom should therefore not only be regarded as a legally protected right, but as a comprehensive normative ideal. The

latter can only be made concrete and proven to be valuable within an institutional practice—in research, teaching, and universities—and within a social context, the liberal pluralistic democracy.

2 Why is academic freedom contested? Four observations

The debate about academic freedom shows striking similarities to another issue of social conflict: the objects and limits of the freedom of speech. It is no coincidence that these two basic rights, academic freedom and freedom of speech, are addressed in the same article of the German Basic Law (Art. 5 Abs. 1 GG). As basic rights of communication, they are a fixed element of liberal democracies that are based on a pluralism of opinions and the competition between arguments for the better opinion (Bollinger 1986; BVerfGE 65, 1 (41)). However, there are also important differences that might be obscured by the equation of the general right to free speech with the specific right to academic freedom (Gärditz 2021). The often-invoked ideal of academic freedom is—just like the common right of the freedom of speech—claimed by different actors with different academic (and non-academic) intentions.

Equally striking about the debate is the frequency of English or American terms that are used in non-English languages. That is also no coincidence. In many US universities, progressive reforms have been implemented since the late 1980s that find their current expression in the demands for *speech codes*, *trigger warnings*, *safe spaces*, or *no platforming* (Menand 1996; Lackey 2018; Gordon 2022). These buzzwords refer to measures that have been brought forward against certain academic claims, texts, questions, figures of thought, or uses of language by members of the scientific community (i.e., students, lecturers, university leadership), but also by external groups (such as social movements, social media activists). And the reason for that is not that these views are scientifically wrong, dishonest, or fraudulent, but because they contradict the “correct” political and moral norms. This goes along with a sometimes deeply disturbing willingness to oppose with great harshness academics who defend a certain position, or do not comply with certain demands. This opposition takes the form of merciless anger directed at their academic reputation, often becoming personal and even threatening.

Third, the debate about academic freedom has, from the beginning, been conducted in the logic and language of political antagonism—in *we/you* terms and enmity. This does not only apply to the debates about science, in which activists, politicians, journalists or also the common *Wutbürger* get worked up about allegedly elitist, irresponsible, decadent, or corrupt scientists. The malady of political antagonism also exists *within* the scientific community, for instance when colleagues are defamed as enemies of science (or even enemies of freedom), because they allegedly support academic “virtue terror”, “gender madness” or a “dictatorship of political correctness” at the universities (for Germany, see Hopf 2019; Kostner 2022).

Finally, it is also noticeable in the inner-academic debates that a “liberal” concept of academic freedom is put in opposition to a “progressive”, “emancipatory”, or “critical” concept of academic freedom (Schubert 2023). This means that two competing ideas about science and its social function—or: two competing ideas about

the legitimacy of science—are being discussed here. Academic freedom is thus a contested battleground of discourses about norms in society in general. Academia is acknowledged as a social subsystem that follows its own logic of functions, which includes academic freedom. At the same time, goes the progressive-critical demand, science has to adapt to social norms and transformations. It is therefore allegedly possible and legitimate to add normative ideals and values next to academic freedom, or even to prioritize them, such as justice, equality, anti-discrimination, affirmation, intersectional inclusion, pluralism, and diversity. The liberal side, however, insists on the defensive character of academic freedom against such “external” norms and points out the social value of an independent science that is only committed to truth and reality.

3 Normative ideals: constitutional right and scientific ethos

Academic freedom is, at least in the tradition of the German constitution, a legal concept. It is also part of the constitution of many other countries (such as Italy, Switzerland, Austria, Greece, Portugal)—including states that have in recent years severely restricted universities’ autonomy and academic self-determination (Hungary, Turkey). However, the imperative of free science is also present in countries where it is not protected by the law (e.g., Great Britain, France, the US). The normative force of academic freedom does not seem limited to a legal issue. A look at the German Basic Law and the verdicts of the Federal Constitutional Court of Germany further illustrates the philosophically relevant relationship between science, truth, and freedom.

Academic freedom is guaranteed as a defensive and constitutive individual right without legal reservation in Article 5 of the German Basic Law. Restrictions of academic freedom can only be justified by a conflict with equivalent laws. These include laws concerning human dignity, life, freedom from physical harm, health, animal and environmental protection. Of course, legally relevant opinions, theories, and actions by scientists such as hate speech, Holocaust denial, glorification of violence, libel, blasphemy are not protected by academic freedom (Britz 2013). The robust defensive right of academic freedom is not a general right. It protects the persons, practices, and institutions engaged in academic speech, research, and publications against, primarily, the state’s influence aimed at directing, controlling, and sanctioning science. It is not the state’s decision who and what can claim to have a scientific character, neither is it a legal, political, or social decision. This is solely an issue regulated by the control and sanctions mechanism of the scientific community (BVerfGE 90, 1 (12)). Anything that is, in its form and content, to be regarded as a serious attempt at finding the truth is protected by academic freedom (BVerfGE 90, 1 (13)), including minority views, faulty research approaches, unconventional, failed, erratic hypotheses, theories, and positions (BVerfGE 65, 1 (41)). The idea of science and the idea of free science thus refer to each other. If you restrict, ignore, or violate the freedom of science, you jeopardize science as an insight-oriented practice—and also as institutions of research, teaching, and education. Moreover, you jeopardize

science as a broadly acknowledged and supported social subsystem. Simply put: you curtail the endeavor for truth that is constitutive for science.

Science as the systematic method of searching for insights and as the practice of forming knowledge is guided by an ethos of epistemic rationality. The latter is thought to ensure the quality of the research and its results, and hence the scientific character of science. Systematic coherence, internal consistency, clarity, but also austerity and elegance (Ockham's Razor), exactness, and verifiability are common and accepted elements of this ethos. They define what are good scientific practices and good scientists. Second, this ethos guarantees the autonomy and independence of science from political and social interests. Third, with its peculiar epistemic and ethical values and virtues, it constitutes a common ground connecting scientists. Robert Merton, the founder of the sociology of science, has analyzed this socio-epistemic arrangement—which he calls *scientific ethos*—with reference to four normative principles: communism, universalism, disinterestedness, and organized skepticism (Merton 1942). Since the *practical turn* of the 1980s, the philosophy of science has explicitly addressed the interaction between epistemic, ethical, and socio-political norms in the establishment and justification of scientific knowledge (Schurz and Carrier 2013; Elliot and Steel 2017).

The task of the scientific ethos is, among others, to guarantee the normative basis that allows for our scientific discussion, the tough argumentative dispute, the heated argument about the correct view, thesis, and theory, to flourish (Füger and Özmen 2023; Özmen 2023). Acknowledging the normative premises for scientific discourse has beneficial effects on academic freedom. However, this acknowledgement cannot be enforced. Academic freedom is based on, and needs, requirements that cannot be guaranteed by this right, or can be guaranteed only partially. One could call it the risk of epistemic openness, which is taken for the sake of freedom. This means, on the one hand, it must not matter for granting academic freedom whether scientific views, theories, or persons are crude, unpopular, inconvenient, bigoted, or reactionary; whether they can be shown to be unreasonable, unjustified, or absurd; or if they are perceived as disquieting, shocking, or offensive. For scientific activity and academic agents, binding limits of academic freedom can only be set with respect to the legal order. At the same time, it is not academic freedom itself that will (ideally) lead to a preliminary victory of the better belief and a long-term evolution of the truth, but the confrontation between views, hypotheses, and theories, their competition and argument with each other. Hence academic freedom is not exhausted by a negative concept of freedom in the sense of freedom from coercion. Instead, it concerns the positive freedom to participate in the scientific practice of improving one's own, and the collective, beliefs.

4 Contemporary challenges: How (not) to deal with conflict

What follows from these considerations about the normative basis of academic freedom for the current debate? First of all: the question about possible limits of academic freedom can be clearly answered. For scientific activity and scientific agents, binding limits of academic freedom can only be set by reference to the legal order.

Science does have to be politically and morally “correct” in the sense of a liberal-democratic order, the protection of basic rights, and criminal law. Further attempts at exerting social—for example political, religious, or ideological—influence, sanctioning, and discrediting, however, are as problematic as they are popular. With respect to the good of a free science and a critical university, this presumed right to limit academic freedom in the interest of other values must be clearly rejected.

Second, it seems undeniable that a common scientific ethos and a shared academic culture form the basis for the possibility and continuation of epistemic freedoms. These freedoms, which science requires and that cannot be guaranteed by the legal order alone, are spaces of reasons. Here, the standards of rationality are high, and ideally, opposing positions and serious reflection on those are anticipated. Speech is followed by criticism and opposing speech. Factual insistence (instead of diversion, changing subjects, and bullshitting) is the discursive standard. Antagonistic positions, as sometimes cultivated in the debate about academic freedom (e.g., left vs right, woke vs boomers, old vs young), are alien to science. The first sentence of an ode to science should warn: *O Freunde, nicht diese Töne!*

Third, the responsibility for the existence and thriving of science’s safe spaces also lies with the individual scientists. They are free, for instance, to invite politicians of any orientation to the university. All members of the university (including students and leadership) are equally free to challenge these. Harsh objections and criticism do not violate academic freedom. The right to academic freedom is a right that is taken at one’s own risk and that doesn’t entail a right to affirmation and solidarity. Hence people must accept being challenged as to why they have invited a specific person, what the intended didactic or discursive point is and whether the latter seems justified, fair, legitimate, and acceptable. Critics also have to acknowledge certain questions: which reactions can be responsibly justified in the light of academic freedom and the related epistemic hopes? And which of these are incompatible with the normative ideals of a free science and critical university? In any case, part of the answer is: Violent protest—vandalism, forcing the cancellation of classes and graduations, shutting down campuses, jeopardizing students’ safety—is not protected.

Nobody has the right not to be objected to. Even unpleasant and harsh scientific criticism is not a restriction of academic freedom. The academic discourse culture is, to a large degree, a culture of dissent. However, provocations, polemics, and emotionalization—which have become established parts of the debate about academic freedom—make it more difficult for everyone involved to be guided by facts and arguments alone in scientific discourses. The lust at outrage and scandal, the rhetoric of enmity, the culture of “cancel culture” and wrongness (in subject matters and persons), but also the flight from discourses and dissent, therefore constitute academic vices.

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