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**Journal of**

**EDUCATIONAL MANAGEMENT**

*A Bi-annual Publication of*  
**THE INSTITUTE FOR EDUCATIONAL PLANNING AND  
ADMINISTRATION  
(IEPA)  
*University of Cape Coast, Ghana***

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**ISSN 0855-3343**

**Vol. 1 No. 1**

**Nov. 1998**

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## ACADEMIC FREEDOM: RIGHTS, LIMITATIONS AND PRACTICAL VALUE

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### ABSTRACT

*The concept of academic freedom means different things to many and different people. Many people outside the University view academic freedom with askance.*

*Even among those familiar with the University system, academic freedom is very little understood. Studies suggest that in the late 1970 and 1980's, academic freedom became synonymous with what has been referred to as "academic pomposity." These were periods of massive social and political changes especially in countries like Ghana, when both ordinary people and opinion leaders questioned the wheretofore of "ivory towerism" and "cosmopolitan professionalism." The latter expression seems to regard the university don as generally having only a marginal loyalty to his/her organisation and nation as a whole. According to Warner and Palfreyman (1996, p. 92) members of cosmopolitan professionalism tend to align themselves with their peers within their discipline for the purpose of recognition and evaluation. As employees they demand high levels of autonomy and participation in their work and resent close supervision. In the strict sense of the word, collegiality may be likened to cosmopolitan professionalism.*

*The expressions ivory towerism and cosmopolitan professionalism tend to connote elements of exclusiveness, and seclusiveness from national and social interest.*

*But it is important to ask whether academic freedom should continue to be seen in these lights and whether such conception is defensible.*

*This paper seeks to explore the frontiers of academic freedom, its rights, limitations and practical value regarding it as both a concept and a phenomenon : concepts to the outsider and a phenomenon to the "practitioner" of academic freedom.*

### Concept of Academic Freedom

Unlike several other concepts, the definition of which may markedly vary from writer to writer and may, therefore, have as many definitions as there are writers, the concept of academic freedom enjoys a fairly uniform definition among writers. The International Encyclopedia of Higher Education, for example, defines academic freedom as

the freedom of the teacher within his or her field of study. It is a safeguard that allows researchers and teachers in institutions of higher learning to pursue

their work without the inhibition, prohibition or direction of political, ecclesiastical or other administrative authorities regardless of their personal philosophies, behaviour or life style ( A. O. Lovejoy, 1972, p.24)

This definition is wide ranging and offers the academic staff what appears to be an unlimited scope of practice with even their life style beyond question by any authority, political or otherwise.

Professor Arthur O. Lovejoy in 1972 defined the concept further as the freedom of the individual academic member of staff to ; "investigate and discuss the problems of his science and to express his conclusion whether through publication or in instruction of students without interference" (A. O. Lovejoy, 1972, p.384)

This definition also sees non-interference in the pursuit of academic work as a cardinal landmark in the practice of academic freedom. In the International Encyclopedia of Social Sciences, the concept has also been defined as

the freedom claimed by a college or university professor to write or speak the truth as he sees it without fear of dismissal by his academic superior or by authorities outside his college or university ( D. L. Sills, 1998, p.4)

The pursuit of truth by the academic staff as he "sees it" is cardinal in this definition but the question of what is truth has remained a philosophical problem throughout the ages; at least Jesus Christ did not provide an answer when Pontius Pilate put the question to him or for one reason or the other was not allowed to provide it. To the Idealist, however, truth is not merely a creation of the individual or the society but it exists independent of man or of man's knowledge of it and can, therefore, be found. B.J. Rosen (1968, p.18). To the Realist, the problem of what is truth is resolved by its correspondence theory which in short states that a thing is true as it corresponds to the real world and that since knowledge is by definition correspondence it must be found (B. J. Rosen, 1968, p.18). Therefore in this definition it does not matter from which angle one perceives truth in so far as one considers it to be so and can defend it. This gives the academic an unlimited latitude to explore his or her field of knowledge to the limit of what he or she considers to be truth.

Professor R. F. Fuchs defines the concept as :

that freedom of members of the academic community assembled in colleges and universities which underlies the effective performance of their functions of teaching, learning, practice of the arts and research (R. F. Fuchs, 1966, p.291).

This definition appears to have very strong overtones of medieval university which was essentially a community of academics or association of academics free to practice their functions in a guild system.

In May 1988, the House of Lords passed the Academic Freedom Amendment to the British Government Education Reform Bill and placed the concept of academic freedom "within the law" of Great Britain defining it as :

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 or losing their jobs or privileges they may have at their institution (C. Russel, 1993, p.1)

This definition is similar to the one by the International Encyclopedia of the Social Sciences in which dismissal or loss of one's job appears to be the main sanction which when imposed may be tantamount to the breach of academic freedom. Academic freedom may be breached when an academic member suffers demotion, withholding of merit of any kind such as censor or any other action taken either overtly or covertly against such a member, the underlying reason being that he or she has expressed an opinion or made a publication of something he or she perceives to be truth. Such imposition of sanction may not necessarily have to lead to a loss of job.

In another perspective, the Romanian Ministry of Education defines this concept as :

freedom associated with teaching, learning and doing research and disseminating and expanding knowledge in conditions of self management and freedom from political, religious, ideological, or any other constraints exerted by the state or by the social or organisational forces *outside the university* (emphasis mine)

This definition links academic freedom intricately with autonomy of universities. In relation with the previous definitions just discussed, this definition is slightly different in that it sees the constraint on academic freedom as coming principally from outside the university. This may not necessarily be the case because the inhibition to academic freedom may even come from within the university itself. For instance, The Times Education Supplement of June 25, 1976 reports of a curious case in which the citizens of Cambridge in Massachusetts, U. S. A. became alarmed about the building of a research laboratory for advanced study into the generic structure of higher organisms by the Harvard University. The citizens feared that such a study may release what they referred to as uncontrollable genetic freaks into their midst with serious consequences. It turned out that the citizens' fears were actually being precipitated by a fellow academic in the biology department in this same university, a Nobel Prize winner in

Biology who was bitterly opposed to the study. The inhibition of academic freedom can even come from fellow academics within the same university. In any case it is plausible to suppose that such inhibition appears stronger if it comes from a political power. This outside force is also emphasised by Neave and Van Vught who in their book "Government and Higher Education Across Three Continents : The Wind of Change," consider the concept as :

the freedom to pursue truth in one's teaching and research activities wherever it seems to lead without fear of punishment, or termination of employment for having offended some political religious or social orthodoxy (G. Heave & F. Vught, 1994)

The use of threat of loss of job is here again emphasised. Professor W. B. Harvey, a former Professor of Law in the University of Lagos, Nigeria, tends to support the ingredients in the above definitions thus :

Academic Freedom does not exist where the actuality or the reasonable prospect of the imposition of any disadvantage or the withholding of any benefit serves to limit the teacher-scholar in his search for the truth or in his transmission of the fruits of that research to his students or the scholarly world (W. B. C. Harvey, 1977, p.1).

From the few examples cited above, it is clear that the concept of academic freedom has a uniformity of definition with an emphasis on one thing or the other according to a writer's view. The grain which runs throughout the definition is that the university professor or teacher should be able and free to explore the frontiers of knowledge the way he or she sees it without fear of interference or coercion from a body outside or inside the university.

As some of the definitions alluded to, the autonomy of the university appears to be the platform on which the successful practice of academic freedom can take place. The two concepts have, therefore tended to go together and one can hardly discuss the concept of academic freedom without making reference to university autonomy ; the latter from an institutional point of view and the former from an individual or collective point of view. It would seem, however, that the autonomy of a university may not necessarily guarantee an academic freedom for the individual member of staff within the university. In this regard, I think that the concept of academic freedom may have to have an element of reasonableness ; that within certain limits the academic member of staff will have a freedom of practice. The limitations placed on the concept of academic freedom as will be explored later seems to support this. In fact no freedom is a blanket one. In the light of this I consider the definition offered by the New Encyclopedia Britannica of 1987 as the most comprehensive ;

the freedom of teachers and students to teach, study and pursue knowledge and research *without unreasonable* interference or restriction from institutional regulation or public pressure. Its basic element includes the freedom of teachers to enquire into any subject that evokes their intellectual concern ; to present their findings to their students, colleagues and others ; to publish their data and conclusions without control or censorship ; to teach in a *manner* they consider professionally appropriate and act in their private lives with all the rights and liberties enjoyed by all citizens (R. Mchenry 1987, p. 50) (emphasis are mine)

The importance of the emphasis will be noted very shortly. In another very interesting way Graeme C. Moodie writing of the University of South Africa gives a definition in what appears to be a strong reflection of the political situation in the then Apartheid Regime. In an article, "The State and the Liberal Universities in South Africa - 1948 - 1990," published in the International Journal of `Higher Education and Education Planning vol 27 of 1994, he writes that academic freedom is ;

The freedom of academic staff and students to pursue their academic work within, for most part, only those restraints imposed by the nature of that work and available resources (G. C. Moodie 1994, p.13).

To some extent the fact that academic freedom is restricted by the type of work and its impact on the society as indicated in the Harvard experiment is highlighted in Moodies ' definition. A careful analysis of his work however appears to show some kind of support for the Apartheid system. At a time when several university professors were either incarcerated or banished for speaking their minds on issues in several dimensions Moodie concluded his work by stating that academic freedom was well preserved by that regime.

#### *Rights and Limitations*

Universities exist to principally explore and expand the frontiers of knowledge so that this knowledge can ultimately be used for the good of mankind or for the exercise of the mind. To perform these functions the university undertakes research and indeed almost all scientific and other feats have been achieved on university campuses. Research involves the pursuit of truly new knowledge through hypothesis testing and validation to that level of strong probability which seems to be the practical limit of the human mind (Harvey, 1977, p. 7). If universities exist to expand the frontiers of knowledge then they and their staff must be free and therefore have the right to exercise this function for knowledge as the Encyclopedia Britannica admits, is best advanced when enquiry is free from restraints by the state, by the church or other institutions or by social interest groups.

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Universities and their staff must also within the limits of the autonomy have the right to plan their own teaching programmes, admit students they consider qualified for admission and manage their own affairs to the limit of their ability and resources if they are to perform their functions adequately. This right is necessary because without it a university does not exist.

It is also the right of universities and their staff to question existing knowledge or ideas whether these ideas are from their own colleagues or from other authoritative sources for it is only through this that knowledge can grow and expand. Without the right to expand knowledge there can be no progress. In his address at the formal opening of the University of Ghana, Legon, Kwame Nkrumah laid a stone to academic freedom :

Scholars must be free to pursue the truth and to publish the result of their researches without fear, for true scholarship fears nothing. It can even challenge the dead learning which has come to us from the cloistral and monastic schools of the middle ages (W.B.C. Harvey, 1977)

Learning challenges existing knowledge and it is the university's right to ensure that such learning takes place. I also think it is the university's right to advise governments on direction and implication of certain political and economic issues affecting the welfare of the state. However, I make this observation with

a great deal of reservation unmindful of the fact that in many places specially in the developing world some regimes may not take such suggestions kindly and may regard them as attempts to make their governments unpopular. In some cases academics themselves may abuse this right and make "tenacious statements which have no bearings" on their rights.

On matters of political expediency, therefore, the academic has to be wary of how he or she speaks. It is the responsibility of the universities to ensure that their knowledge is placed at the disposal of the people.

The right to teach, research, question received knowledge, expand the frontiers of knowledge and to govern autonomously has its limitations. The precise boundaries of such limitations are however, difficult to draw. One limitation is that the university and its staff may comment freely on the matter or substance of a situation but should be very cautious on the manner of expression. The right to teach imposes a limitation to the extent that the teacher should be careful not to introduce into his teaching matters which have no bearing on the subject and unnecessarily stray into controversial or private issues. The American Association of University Professors (AAUP) defined this kind of limitation when it said, among other things that ;

The teacher is entitled to freedom in the classroom in discussing

his subject but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject (W.B.C. Harvey, 1977).

If a university or its staff makes statements about someone's private life and those statements are considered by the individual to be scandalous or if any writing about him or her is considered libellous, the individual can bring action in the courts of law. Libel, as the law says, is actionable without proof of damage. Before the law academic freedom is limited in that sense. The university or its staff cannot, therefore, hide behind the cloak of academic freedom to malign the state or bring anyone's private life into disrepute. Again, I think that if a research being carried out by a university can be shown to be detrimental, as was the case with the Harvard proposed experiment, academic freedom may not allow this detriment.

Financial stringency and the need by universities everywhere to explore other sources of funding to supplement dwindling state funds to them are, in a way, limiting university autonomy and academic freedom. Governments in many cases are now dictating to universities what should be taught, what kind of research will receive state support and what kind of subject areas students admission should give priority to. This situation is as common in the United Kingdom as it is in Ghana. A former Secretary of Education for England, Lord Eccles, is reported to have said ;

the taxpayer pays such a large part of the university's income ; and therefore we should be able to say to them from time to time, will you please study this particular subject because it is in the national interest you should (C. Russel, 1993, p.54)

The Higher Education Funding Council for England (HEFCE) sets boundaries for student numbers. For the period 1997 - 98 for instance, the Council directed that student numbers in English Universities correspond to what it calls a constant participation rate of 30 %. The Council is also to control the number of student award holders through the setting of Maximum Aggregate Student Numbers (MASN) and universities which exceed such numbers by 1 % are penalised. In Ghana government directs that the universities should achieve a projected annual growth rate of about 30 % for the period 1987 to 1997. All this growth rate is to be achieved without corresponding increase in funding from the government. The issue I wish to raise by these facts is that even though universities can determine what they want to teach and what number of students to admit, their direction is now being influenced or even determined by governments. Even before such situations became acute, Professor Harvey, speaking on the limitation, said ;



If university autonomy as a component of academic freedom means that the members of the university community alone should enjoy the prerogative of defining the university's programmes and shaping its mission that principle will be severely challenged in post-independence Africa (W.B. C. Harvey, 1977).

Politically, too, limitations may be drawn. Academic freedom will not allow advocacy of a teacher's political or religious stand on his or her students;

... academic freedom is committed to the protection of the circulation, exploration and advancement of ideas but not of any excessive mode of advocating them (A. O. Lovejoy, 1972, p.25).

As a result a Political Science teacher or any other teacher who is a protagonist of say Marxism cannot seek to convert his students or coerce them to become Marxists, neither can a Christian or Buddhist lecturer seek to covertly make his or her students accept his or her faith. Lines should carefully be drawn on such grounds, if and when the teacher is in the classroom. Outside the classroom and as a citizen the teacher is free to practise his religious or political persuasion ; he may even be the High Priest of his religious denomination. The university classroom cannot also be the ground for the practice of political parties. The university can teach politics as a subject but not as a protagonist.

Politics can be a subject for analysis in university activity but not as one for practice. The university and its body of scholars in their capacity as the teaching staff cannot take a political stand [as ] partisan value judgements prevent lucid reasoning (and) gradual accumulation of truth and critical stance (Ministry of Education and Culture (1988, p.4)

The university has the right to "think the unthinkable " but its right to a collective political stance is very much limited though its staff in their own rights as individuals can belong to political parties or even stand for political positions. My view in this regard is that whenever an academic member of staff is offered a political appointment he or she must resign his or her position as a university teacher and not combine the two. The reason is not far fetched.

In the United States where perhaps the most extensive literature on academic freedom exists the American Association of University Professors makes it abundantly clear that the asserted freedom is not a licence. Professor Harvey also cautions :

the effective protection of academic freedom does not mean that the teacher-scholar is free of all constraints, has no duties correlative to his right to freedom or is totally free of the possibility of sanctions (W. B. C. Harvey, 1977).

The university and its staff, says Bereday, ought to follow Matthew Arnold in believing that freedom to speak also means freedom to have not only the right to say what one thinks, but also the duty to keep silent unless one has something worthy to say (Bereday, 1973, p. 137). The university and its staff can face sanctions as any other person for "adequate cause," a legal term not easily explained but has arms long enough to be stretched by the state against any individual who steps or is considered to have stepped beyond the boundaries of the law of the land.

The teacher or scholar cannot wilfully perpetrate an error for the sake of academic freedom. This does not imply that the academic is infallible or cannot commit an error. Often further research into a previous finding may reveal an error or inconsistency. The man who considered the shape of the world to be flat was not untruthful because to the best of his knowledge and the limit of the technology at that time his discovery was considered to be true. Further research revealed that this was not the case. What is objectionable and places a limitation on academic freedom is a wilful perpetration of what one knows to be an error.

Another limitation on the practice of academic freedom is the issue of plagiarism. This freedom will not allow the scholar to lift or reproduce what someone else has written and claim ownership for it.

This, as Russel puts it, is not academic freedom but theft. Such an action can be challenged in a court of law under the copyright or intellectual property law. It can also be challenged at what Russel further calls the bar of academic freedom. Reasonable limitation of academic freedom must be placed here. Again the freedom allows one to make an objective criticism of someone else's work but not to condemn it.

In theory, academic freedom allows freedom of speech but not incitement. An academic for instance, can say that the politicians of a country are corrupt but not to incite the public against them or to seek to cause an overthrow of the government. This however is debatable. The university and its academic staff are also accountable to the state and therefore academic freedom or institutional autonomy will not permit frivolous dissipation of resources. Accountability in the use of resources of the state also places a great deal of reasonable limitation on academic freedom.

#### *Practical Values*

From the definitions above, the concept of academic freedom has an advantage of providing a safeguard for researchers and teachers to carry on their work without fear and with an open mind. It therefore allows room for scientific enquiry and investigation independent of biases and personal or individual judgements.

Again the concept hedges the academic profession from unnecessary state or outside influence in a similar way as the independence of the judiciary. The independent judiciary in Britain was able to place an injunction on the broadcast by the BBC of Prime Minister John Major's interview to Scotland on 6th April, 1975. In a similar way academic freedom has the advantage of assuring the academic staff that he or she can examine, advance or challenge dogmas and received opinions in the interest of advancing knowledge.

It is also academic freedom and institutional autonomy that mark out the university as an entity. A true university makes its own laws to govern itself, plans its own method of teaching, its own time-table and decides which students are qualified for admission into it. The government may lay down priority areas or subjects to be funded but it is the university which decides whether candidate "A" who has priority over candidate "B" to pursue a course in Agricultural Engineering has the requisite qualification to pursue that course. Institutional autonomy and academic freedom do not or should not allow an outside body to dictate to the university what qualification it should use to admit its students. This advantage has the obligation that the university's admission rules should be fair, firm and transparent without discrimination on the grounds of race, religion or social standing of candidates.

Academic freedom also has the advantage of security of tenure. Even though to a large extent this is controversial in many Universities and the issue is under debate. There is the assurance that the academic cannot be dismissed by one's whims and caprices without recourse to the processes of law. In some professions such as accounting the prospect of loss of job or clientele or patronage may provide strong incentives for practitioners of that profession to avoid offence (Harvey, 1977, p. 18) or even fear of making a mistake.

Academic freedom shields the academic staff from that patronage and fear of loss of job or clientele. Harvey confirms that the proper advantage of protection of academic freedom is concerned with the security of tenure. Russel also shows that the training of the academic makes them more likely that if they later become civil servants, for example, to have the intellectual capacity and discipline to tell the Minister of State that what he wants or she wants to do cannot be done (Russel, 1993, p. 27). According to Russel this is why it is necessary to have civil servants whom the minister believes capable of not telling a thing unless he believes it to be true.

To me this is not to say that there cannot be academics in governments who are stooges or who fear to speak the truth for fear of losing their job. The underlying advantage is that the freedom to pursue knowledge prepares an academic to be truthful.

In the 13th century Godfrey of Fontaines, a member of the Faculty of Theology in the University of Paris remarked :

to bind men to an opinion on questions on which there may be a diversity of views without danger to faith would impede the pursuit of truth. Since the conflict of opinion among learned men would stimulate discussion, the truth would be discovered more easily if men were left free to seek through discussion not what is more pleasing but what agrees with right reason. (W. B. C. Harvey, 1977, p.18).

The systematic quest for the truth should have the concomitant advantage of leaving the academic with the love for nothing but the truth.

Academic freedom, to a very large extent, makes the academic resilient, courageous and astute. Says Bereday:

Universities in country after country are realising that the true meaning of academic freedom lies not in avoiding pressure but in defying it when it comes. The strength of a freeman is to challenge enquiry and criticism, not to shudder before it (G. Z. Bereday, 1978, p.25).

Another advantage of academic freedom is that by their training, academics are

able to tolerate errors and criticism. To be an academic is to tolerate all seeming errors, for what is true is never fully knowable (Hofstadter and Metzger, 1955, p.364). One other strong advantage of academic freedom is what Hofstadter and Metzger refer to as "the merit of universalism" which they define as the elimination of particularistic criteria - creedal, racial, or national - in judging the merits of a work and the elimination of unearned advantage - connections, rank and caste in considering the merits of a man. The obligation here is obvious.

Academic freedom also places on its practitioner the virtue of respect for one's self and respect for others and their views. Such virtues have been mentioned by the American Association of University Professors (AAUP) as important landmarks in the life of the academic in the following statement :

When he speaks or writes as a citizen he [she] should be free from institutional censorship or discipline but his [her] special position in the community imposes special obligations ... as education officer ... he [she] should at all times be accurate, should exercise appropriate restraint, should show respect for the opinion of others and should make every effort to indicate that he is not an institutional spokesman. (R. Hofstadter & W. Metzger, 1955, p. 31).

Unfortunately, in many cases, the academic has been accused of what has been called ' intellectual arrogance '. Bereday admits that :

intellectual arrogance is the cause of a steady murmur that the universities do not live up to their mission, that they have tried to offer leadership instead of guidance, dictation instead of inspiration, doctrinaire certitude and sarcasm instead of scholarly humility and caution (G. F. Bereday, 1978, p. 135).

The academic should, therefore, be able to draw very careful boundaries between what are decorum and societal norms and the negative contrasts indicated by Professor Bereday above. This is a great obligation.

It is important, however, to remark that these merits may not automatically remove from the individual academic staff his or her innate tendencies and idiosyncrasies which are sometimes also influenced by the individual's social or cultural inclinations. With all its limitations the concept of academic freedom, in fact, is the orthodox cornerstone of the life of the university (Bereday, 1978, p. 137). This has tended to confer on universities and their staff special privileges and respect. Academic Freedom, also, has the obligation for service to the community, as Maclver puts it :

... the reason he belongs to the guild of educators, the reason he has a place in an institution of higher learning is that he is first and foremost engaged in the pursuit and communication of knowledge. This function is a community service .... The service of the educator is not a service to his students alone or to his institution or to his profession. It is a service to his country. A service to civilisation, a service to mankind. The fulfillment of this incalculable service depends on the healthful maintenance of the freedom of the scholar.

### Conclusion

Academic freedom which is the freedom of the academic staff in a university to explore the frontiers of knowledge is an inalienable right but invariably, like all rights has some limitations. The concept is a time-tested one which has been fought for centuries. It is however, by no means a license. The academic staff in carrying out his function must be subject to the laws of the land. The concept has several advantages, among them an assurance of security of tenure. It is this concept that marks out a university from other institutions and without it knowledge can hardly advance. It is freedom which cannot therefore be sacrificed by the university, though economic trends appear to place it in some kind of a shaky balance as governments, in trying to

meet the harsh realities of the day continue overtly or covertly to dry out this freedom. Industries are also increasingly dictating their subject areas and universities in their bid to survive continue to subordinate some of the freedom to industries in particular lines of research suitable to these industries. The almost inevitable trend to treat education as a market commodity and the concomitant resort to other models of management in market economies in a way appear to take off some of the privileges of academic freedom. These, however, should not throw academics into frenzy to sell that freedom but as we roll into the 21st century universities should carefully weigh the merits of the concept and see where they need to strengthen their positions to maintain their freedom, and to place knowledge at the disposal of development.

I should like to conclude this essay with the following quotation from an article by W. Wallace, one time the President of the Association of University Teachers in England, published in the *Times Higher Education Supplement of December 13, 1974*. The title of the article is "Inflation is the Threat to Academic Freedom."

Academics in the 1960s enjoyed a freedom of teaching that will never recur. That can be acceptable but university teachers will have to watch with extraordinary care that the economics of inflation and the cumbersome procedures of

manpower planning that may accompany them do not curtail their right and ability to vary their teaching to meet the needs which their professional expertise tells them should be met. ... The swing now from never so good to ever worse carries a threat not only to these services [teaching and research] but also to important aspects of academic freedom (W. Wallace, 1974).

Academic freedom has been won after centuries of struggle since the day Socrates was accused of having corrupted the youth of Athens, to Galileo, and "from Galileo to those who refused to teach Lysenko's genetics or Hitler's theories of race ..." and therefore, that freedom must be defended, but not at the cost of the society's well being and institutional advancement in the changing university environment.

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