

Academic Freedom in European and North American Democracies: Identifying Threats, Proposing Solutions



Responsables du numéro

Lucie Lamarche, UQAM, lamarche.lucie@uqam.ca

Camille Fernandes, Université de Franche-Comté,
camille.fernandes@univ-fcomte.fr

General Overview

Academic freedom is defined by the 1997 UNESCO Recommendation as granting scholars, who are its beneficiaries, a set of three freedoms: "the freedom to teach and discuss without doctrinal constraints"; "the freedom to carry out research and disseminate and publish its results"; and "the right to express freely their opinions about the institution or the system in which they work" (UNESCO, 1997, § 27). Like any freedom, academic freedom is limited and carries "duties and responsibilities," which UNESCO characterizes as "specific" (UNESCO, 1997, § 33). Thus, there is an internationally and universally recognized definition of academic freedom. However, its application within states varies. This is particularly the case given that the organization of higher education and the status of academic staff differ from one state to another. The main difference likely stems from the status of academics: in North America, they are typically employees of institutions, while in Europe, they are mostly civil servants. This difference, among others, explains why the sources of academic freedom differ across states, as does its content.

Regarding the sources, the protection of academic freedom depends on labor law and human rights protections in North America: in the United States, the degree of protection is based on the terms of employment contracts and the fundamental right to freedom of expression; in Canada, it relies primarily on collective agreements and the Canadian Charter of Rights and Freedoms – only Quebec passed the *Law on Academic Freedom in Higher Education* in 2022 (Publications du Québec, 2024). In France, as in Germany or Italy, there are no employment contracts or collective agreements: academics are subject to laws and regulations that define their rights and duties, which should ensure a status that differs from the common public service laws, thus balancing civil service and academic freedom.

As for the content of academic freedom, in North America, due to the need to protect academics from arbitrary actions by their employer institutions, which may attempt to dismiss or sanction them for certain public positions, *freedom of extramural utterances* is considered an integral part of academic freedom. This is not always the case in Europe, especially in France, where the law specifies that "the full freedom of expression" enjoyed

by academics applies only "in the exercise of their teaching functions and their research activities" (Légifrance, 2020: art. L.952-2). The *extramural* freedom of expression of academics is, in principle, protected by the same rights that any French citizen enjoys.

Although academic freedom may be defined with some differences across states, it is inherently tied to the concept of the university as a place for the free exchange of ideas where freedom of thought is acquired. If one accepts that such a university is essential in any state to foster learning, the promotion and defense of freedom of opinion and expression, then academic freedom is necessary for any liberal democracy. In this sense, academic freedom serves the public interest and is a manifestation of public ethics closely linked to public trust. On the one hand, its effectiveness reflects the trust that public authorities or employers place in academics. On the other hand, academic freedom is crucial to maintaining the public's trust in academic institutions.

The close link between academic freedom and democracy explains why academics are among the first, alongside journalists, to be silenced in struggling democracies. Does this mean that academic freedom is safe from threats in seemingly more stable democratic societies? The answer is no, as highlighted by the international network *Scholars at Risk*, which reported 2,481 incidents against academic freedom in 123 countries in its 2022 report (SAR, 2022). While such threats might surprise in democratic regimes, they actually tend to multiply there, including in North America and Europe. They reflect a form of mistrust toward academics and pose the risk of undermining public trust in academic institutions. They also harm the integrity of the knowledge created, disseminated, and shared by academics, and challenge their immunity from ideological, doctrinal, and political pressures. These findings justify dedicating a special issue of *Public Ethics* to this issue. Examining academic freedom in democracy first requires identifying the main current threats it faces, while keeping in mind that, like any freedom, it is not absolute (thematic axis no. 1). Cataloging and classifying these threats will then allow for the formulation of proposed solutions to strengthen the protection of academic freedom in democracies (thematic axis no. 2).

Thematic Axes

1. Identify threats to academic freedom in liberal democracies of North America and Europe

Threats to academic freedom primarily concern three areas: the freedom of expression of academics, which tends to be increasingly regulated; the freedom of research, which is increasingly hindered and subjected to various pressures; and the governance and functioning modes of universities, whose evolution reflects a decline in self-management and collegiality.

Regarding academic freedom of expression, several Western democracies have adopted, or attempted to adopt, laws that restrict it. This is notably the case in the United States, where several states, mainly Republican, such as Florida and Indiana, have adopted *gag bills*. In France, the legislature also tried to regulate academic freedom of expression with

the passage of the Research Programming Law (LPR), amid controversy over "Islamofundamentalism" in universities. It initially planned to specify that "academic freedoms are exercised in respect of the values of the Republic." In Canada and Quebec, a range of institutional policies creates discomfort within the academic community, both in the educational and public spaces.

Next, regarding academic research, most democracies face a lack of funding, which inevitably hampers the freedom of research. Beyond financial issues, it is also threatened by the development of project-based research funding, which does not encourage the creativity of researchers, as the research topics are often determined by the funders. A recent example of this in France is the funding plan for the humanities and social sciences: the nine "priority scientific themes," within which projects must fit, were not identified by researchers but by political authorities (ANR, 2024). In Quebec, recently passed law subordinates public research funds to the needs of the Ministry of Economy and Innovation (Gingras, 2024).

Finally, self-management and collegiality are also declining. It is particularly revealing that in France, the representation of academics in governance bodies is diminishing in favor of external figures, so that the functioning of universities is increasingly resembling that of American universities: this erosion of self-governance results from the proliferation of *experimental public institutions* (EPEs), which can partially bypass the governance rules that apply to universities. In Quebec, where public universities and the composition of their boards of directors are governed by law (Publications du Québec, 2024, chap. U-1), some institutions have recently faced backlash after proposals for faculty appointments, made collegially, were rejected on the grounds that the selected individuals had undesirable political views (Sioui, 2024).

While academic freedom is threatened in various ways, it should not be seen as a blank check for academics to express themselves or behave without constraints. It cannot always be invoked as a guarantee of protection. In France, for example, the *Conseil d'État* ruled in 2019 that a university professor who "had humiliated two students during a class, with personal, sexual insinuations that undermined their dignity" could not claim protection under academic freedom as stipulated in Article L952-2 of the Education Code, since the behavior "should be seen as separate from the professor's teaching functions" (*Conseil d'État*, June 21, 2019).

Moreover, it is important to recall paragraph 33 of the 1997 UNESCO Declaration, which states that "academic freedoms imply the duty to use these freedoms in accordance with the obligation of every researcher to base their work on the sincere pursuit of truth. Teaching, study, and research must be conducted in full compliance with ethical and professional standards and, where necessary, aim to address the problems faced by society and preserve humanity's historical and cultural heritage."

It is with such limits in mind that efforts should be made to protect academic freedom more effectively.

2. Promote the protection of academic freedom in liberal democracies of North America and Europe

To address these various threats to academic freedom, the first reflex is often to strengthen its legal protection. Various measures could then be considered: legislating, as in Quebec in 2022, to define academic freedom and compel universities to adopt policies that guarantee its effectiveness or enshrining academic freedom at the highest level of the legal hierarchy, i.e., in the Constitution. Studying legal systems where academic freedom is effectively enshrined in the supreme norm, such as German law, might lead to a reconsideration of the interest in constitutionalizing it. Indeed, the interpretation and application of constitutional provisions by judges do not always prevent the enactment of laws that appear contrary to a certain vision of academic freedom. In Germany, for example, the inclusion of *Wissenschaftsfreiheit* (freedom of science) in the Basic Law did not prevent some Länder from opening higher education to competition, encouraging a market-driven logic within higher education (Barendt, 2010, p. 147-148).

Other solutions must then be considered. In Anglo-Saxon countries, the protection of academic freedom does not rest solely on "hard" law, but also on the existence of associations defending academics, whose work has proven effective. This is illustrated by the American Association of University Professors (AAUP) in the United States: besides its numerous statements on academic freedom, which are often applied by employers, the opinions presented by its Committee A before the courts hold persuasive power (Post and Finkin, 2009: 51). Similarly, the Canadian Association of University Teachers (CAUT) promotes and defends academic freedom, as evidenced by its October 2023 statement in the context of the Israeli-Palestinian conflict (CAUT, 2023). In the European Union, the focus is more on awareness, leading to the creation of tools that are more oriented towards observation and reporting: for instance, the European Parliament's *Academic Freedom Monitor*, which annually assesses the level of protection of academic freedom in the 27 member states; the *Observatory on Violations of Academic Freedom* in France; or the *Collective Franco-Quebec Research Chair on Freedom of Expression*.

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Submission Guidelines

Each article proposal, in the form of abstracts of 150 to 200 words, **must be submitted to ethiquepublique@enap.ca by March 31, 2025.**

Each proposal must include the names and contact details of three potential experts in the field relevant to the call for proposals.

Deadline for submitting full articles: **June 30, 2025**

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Those wishing to submit an article must send a proposal through the designated form (see Submission Guidelines). Article proposals should be between 150 and 200 words. The Editorial Board of the journal will communicate its decision within twenty days of the proposal submission deadline. Authors of selected proposals will be invited to submit their full articles. Final articles should be approximately 40,000 characters (spaces, bibliography, and abstracts not included), and must include an abstract and keywords, as well as a bibliography (not exceeding three pages).

Quality Assurance Process

Before publication, every article submitted undergoes a mandatory double-blind peer review process to assess its suitability. The author is then invited to revise the article based on the reviewers' comments. The Editorial Board may reject an article if it does not meet the minimum standards expected of a scientific article or if it is not aligned with the chosen theme.

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