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Conditions of Freedom of Speech of Scholars

*I can be free only to the extent that others are forbidden
to profit from their physical, economic, or other superiority
to the detriment of my liberty.*

Émile Durkheim¹

Artykuł porusza kwestię wolności słowa uczonych z perspektywy formalnych warunków, koniecznych do jej urzeczywistnienia. Zaproponowany został tetragon: (1) zewnętrzne warunki ogólne, wyznaczone przez prawo państwowe; (2) zewnętrzne warunki szczególne, w ramach których umieszczono oczekiwania, co do społecznej roli uczonych oraz ramy narzucane przez same uczelnie; (3) wewnętrzne warunki ogólne, a więc wstępną zdolność samych uczonych do samodzielnego i krytycznego myślenia i wreszcie (4) wewnętrzne warunki szczególne, więc praktyczną implementację krytycyzmu i autonomii wraz z warstwą problemową w tym zakresie.

Słowa kluczowe: wolność słowa, ogólne uwarunkowania zewnętrzne, szczególne uwarunkowania zewnętrzne, ogólne uwarunkowania wewnętrzne, szczególne uwarunkowania wewnętrzne

One could venture the opinion that freedom of speech is fundamental to every human being. It is of particular importance in the field of science and academia since freedom of speech in the broad sense, understood as freedom of thought and expression of scholars as well as the freedom to undermine established patterns, is

¹ É. Durkheim, *O podziale pracy społecznej*, tłum. K. Wakar, Wydawnictwo Naukowe PWN, Warszawa 2011, p. 6. English quotation: <https://www.azquotes.com/quote/1342791> [access: 09.06.2021].

one of the basic tools for conducting scientific and academic research. However, it requires certain conditions without which it is merely an empty term.

This article focuses on the issue of freedom of speech, which is a fundamental principle of scientific and academic work. The research field here is quite narrow, as the considerations will not discuss the legitimacy of the freedom of speech in higher education, the intricacies of scholars' struggle with political correctness², the issue of the limits of ethical responsibility for delivered judgments³, and finally the ostracism of academics threatening the freedom of their research⁴. The analysis will cover the area of the conditions necessary to ensure that scholars can exercise the freedom of speech.

Division of the conditions necessary for the freedom of speech in science and academia

As part of these considerations, the author has adopted a division of the conditions necessary for the emergence of freedom of speech in science and academia into exogenous and endogenous factors, i.e. those of an external and internal nature. Each of these groups can be further divided into conditions that are essentially more general, or narrower and more specific, which will result in a form of tetragon. Hence the specification of the following: (1) external general conditions, prescribed by state law; (2) the external specific conditions within which expectations as to the social role of scholars are placed, as well as the framework imposed by the universities themselves; (3) internal general conditions, i.e. the initial ability of scholars themselves to think critically and independently, and finally (4) internal specific conditions, i.e. the practical implementation of criticism and autonomy along with the structure of the point at issue in this regard. It is also worth adding that the proposed division is disjoint and atomic *par excellence*, because its individual parts may exist in mutual isolation, without implying the presence of others. Thus, although the requirement of legal guarantees of freedom may be satisfied, it does not necessarily mean that scholars themselves will be able to have recourse to them. It is for this reason that the above classification should be approached as a proposal and as a recommendation of the conditions that should be fostered in order to ensure the implementation of the idea of freedom of speech in scholarship.

² P. Chmielecki, *Meandry poprawności politycznej w nauce*, [in:] *Wokół problemów seksualności. Wykłady filozoficzno-teologiczne KTS WBST*, (eds.) P. Chmielecki, M. Wichary, Vocatio, Warszawa 2020.

³ P. Chmielecki, *Granice etycznej odpowiedzialności uczonych za wypowiedzane sądy* [manuscript].

⁴ P. Chmielecki, *Wolność słowa pracowników naukowych w obliczu wizji uniwersytetu jako „świętyni prawdy”*. *Studium teoretyczno-empiryczne*, „Rynek-Spółeczeństwo-Kultura”, 2013, 3 (7).

External general conditions

The first group consists of external general conditions, such as the legal framework under which higher education and the academics themselves operate. These regulations include national and international legislation, although in the case of the latter one should remember to place them, whenever possible, in the context appropriate for a given country⁵.

In Polish law, the freedom of speech of academics is not explicitly regulated in relation to this particular professional group. In a general sense, it is guaranteed by the Constitution of the Republic of Poland in the provision: "The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone"⁶. The basic law also creates a basis for the functioning of higher education agencies, guaranteeing them institutional independence: "The autonomy of the institutions of higher education shall be ensured in accordance with principles specified by statute"⁷. The provision in the preamble to the amended Act on Higher Education and Science is also consistent with the above: "It is the duty of the public authorities to create optimal conditions for the freedom of scientific research and artistic creation, freedom of teaching and autonomy of the academic community"⁸. However, the same entry further reads that: "every scientist is responsible for the quality and reliability of research and for the education of the young generation"⁹. It can be concluded that these are the areas which broadly outline the conditions for the freedom of speech of academics, although they do not explicitly regulate its scope.

At the international law level, one should primarily refer to European regulations. The Great Charter of European Universities (*Magna Charta Universitatum*) unequivocally supports the need to provide universities with institutional autonomy. As part of the basic principles of this document, we read: "(...) its research and teaching must be morally and intellectually independent of all political authority and economic power"¹⁰. In a sense, the third principle of the Great Charter speaks of the freedom of speech: "freedom of research and training is the fundamental principle of university life (...)"¹¹. Although this is not an explicit reference to the

⁵ Cf. Monteskiusz, *O duchu praw*, tłum. T. Boy-Żeleński, Hachette, Warszawa 2009.

⁶ *The Constitution of the Republic of Poland of 2nd April 1997*, art. 54, ust. 1. <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm> [access: 09.05.2021].

⁷ Tamże, art. 70 ust. 5.

⁸ *The Act of 20 July 2018 The Law on Higher Education and Science, Preamble*, <https://konstytucja-dlanauki.gov.pl/content/uploads/2020/06/act-of-20-july-2018-the-law-on-higher-education-and-science.pdf> [access: 09.05.2021].

⁹ Tamże.

¹⁰ *Magna Carta Universitatum of 18 September 1888. Fundamental Principles*, <http://www.magna-charta.org/resources/files/the-magna-charta/english> [access: 09.05.2021].

¹¹ Tamże.

area of freedom of speech, freedom of speech seems to be a fundamental component of the freedom of research and education. It is worth emphasizing, however, that these recommendations have no legal force, as this document is by no means an executive act.

Regardless of the degree of oppression of legislative regulations, however, there is no way to limit the freedom of thinking of scholars. Baruch Spinoza emphasized that each individual is the master of his freedom¹² and that it cannot be given back to anyone or relinquished.

External specific conditions

Within the external conditions specific to the freedom of speech of scholars, we can distinguish an even more far-reaching division into external expectations regarding the role of the academic, which to some extent affects the scope of their freedom, as well as the external framework of the university itself, determined by the academic ethos. It can be said that these external specific conditions affect the freedom of speech of academics at the social and institutional level.

The first of the above-mentioned areas relates to social, non-academic expectations regarding the role of the scholar, its importance in the context of professional complementarity with other professions, the value of the results of scientific and academic work produced and their usefulness and applicability. This seems to be in line with the concept of Émile Durkheim, who understood society as a whole, where individuals play different but complementary roles¹³. It resembled an organism whose vital functions are interdependent¹⁴ and should interact with each other on a regular basis¹⁵. However, Durkheim attributed a special role to education over other activities. He noticed that when considering all the elements of civilization, scholarship is the only element that under certain conditions has a moral character.¹⁶ However, this morality carries a certain burden and social expectation of higher standards of academic work.

It is worth emphasizing that scholarship is based on a tradition of long duration and it is difficult to deny it a systematic and cumulative meaning. The words of Florian Znaniecki seem to be significant in this matter: his reflections on philosophy can be treated as a kind of representation of scholarly study in a broader sense. Znaniecki believed that philosophy and learning were not about summing up partial truths, but about a wealth of points of view. Only full awareness of

¹² B. Spinoza, *Traktat teologiczno-polityczny*, tłum. I. Halpern, Hachette, Warszawa 2009, p. 374.

¹³ É. Durkheim, *dz. cyt.*, p. 58.

¹⁴ Tamże, p. 65.

¹⁵ Tamże, p. 163.

¹⁶ Tamże, p. 68.

each other's complementarity could lead to the harmonious cooperation of various schools within a whole understood in this way¹⁷. Scholars' freedom of speech would be an *ab initio* condition for building up knowledge of science and the arts. While scholars themselves often complain that their efforts are not appreciated by society¹⁸, their significance is undeniable. Znaniecki believed that the goal of every scholar is to seek the truth:

Man discovers a hitherto unknown truth or a set of truths which, in his opinion, are of absolute and fundamental importance for knowledge in general or for some specific area of it. If he finds followers who accept his discovery and pass it on to others, he becomes the initiator of a new school¹⁹.

Nevertheless, a solid justification of the judgment expressed and the scientific discovery communicated is required. Each scholar should avoid falling into intellectual ossification and remaining closed to the facts²⁰.

Within this category of conditions for the freedom of speech of scholars and academics, the role of the academic ethos should also be indicated. The University is founded on the value of universal truth, which is difficult to study²¹. For this to be possible, a sufficient degree of freedom must be ensured on many levels. Apart from the freedom of speech discussed here, Kazimierz Ajdukiewicz also cited freedom of thought, enquiry, research and methods²². Jacques Derrida claims that:

This university claims and ought to be granted in principle, besides what is called academic freedom, an unconditional freedom to question and to assert, or even, going still further, the right to say publicly all that is required by research, knowledge, and thought concerning the truth . . . The university professes the truth, and that is its profession. It declares and promises an unlimited commitment to the truth²³.

It follows directly from the above that the freedom to conduct research, including the freedom of speech of academics, is an inherent feature of the university. Derrida expressed more emphatically that freedom of speech should not be

¹⁷ Cf. S. Borzym, *Lata 1864-1895. Florian Znaniecki*, [in:] *Zarys dziejów filozofii polskiej. 1815-1918*, PWN, Warszawa 1983, p. 479-486.

¹⁸ F. Znaniecki, *Spółeczna rola uczonego*, [in:] F. Znaniecki, *Spółeczne role uczonych*, PWN, Warszawa 1984, p. 303.

¹⁹ Tamże, p. 396.

²⁰ Cf. tamże, p. 427-435.

²¹ K. Twardowski, *O dostojności Uniwersytetu*, Uniwersytet Poznański, Poznań 1933; reprinted in: „Kronos”, 2011, 1, p. 268.

²² K. Ajdukiewicz, *Co to jest wolność nauki?*, „Zagadnienia Naukoznawstwa”, 1983, 3, p. 202.

²³ J. Derrida, *The university without condition*, (ed.) T. Cohen, *Jacques Derrida and the Humanities: A Critical Reader*, Cambridge University Press, Albany 2002, p. 24.

limited to speaking only about facts, but should also allow for the possibility of putting forward new theses, those not yet documented, by calling the university itself, the unconditional university, “the principal right to say everything, whether it be under the heading of fiction and the experimentation of knowledge, and the right to say it publicly, to publish it”²⁴. It is worth adding that, according to Derrida, freedom of speech also offers the possibility of deconstructing the current order and undermining the “well-established meanings” and the “once and for all” truths. He claimed that the proper space for this work and this reflection should be the university, and in it, to the highest degree, the Humanities, irrespective of whether these were critical or deconstructive discussions, since it is the place of *unconditional* discussion free from all assumptions about everything that concerns the question and the history of truth (...) ²⁵.

Derrida himself realized, however, that the formula of the unconditional university was not reflected in reality²⁶. Moreover, freedom of speech cannot only be guaranteed by law, but should be put into practice. More often, however, we deal with the reconstruction of the existing social structure and even its reproduction²⁷. Universities resemble a medium that transmits and strengthens the rules of economic and political life. Surrounded by a wall, the university hides more and more walls inside²⁸. Instead of undermining fossilized structures, academics reproduce the existing order²⁹ because most scholars – to put it bluntly – are not interested in change³⁰. Andrzej Zybertowicz writes that “(...) hardly anyone feels the need to close the interpretation, i.e. to bring it to the level where the diagnosis leads to recommendations concerning the diagnosing persons themselves”³¹. It is not only a matter of obstacles on the part of scholars, but also becomes a *quasi*-institutional activity, as emphasized by Alasdair MacIntyre, who stated that academic organizational forms could sometimes exclude from academic debate and research such perspectives that were not assimilable enough by the university status quo. It is caused not so much by officially banning a forbidden doctrine but by accepting it in

²⁴ Tamże, p. 26.

²⁵ Tamże, p. 25.

²⁶ Tamże.

²⁷ E. Neyman, Wywiad z profesorem Pierre'em Bourdieu, „Kultura i Społeczeństwo”, 1989, 3-4, p. 185.

²⁸ O. Szwabowski, *Nekrofilna produkcja akademicka i pieśni partyzantów. Autoetnografia pracy akademickiej i dydaktycznej w czasach zombie-kapitalizmu*, Instytut Pedagogiki Uniwersytetu Wrocławskiego, Wrocław 2019, p. 84.

²⁹ P. Żuk, *Wstęp. Od uniwersytetu w Bolonii do makdonaldyzacji szkolnictwa wyższego*, [in:] *Wiedza. Ideologia. Władza. O społecznej funkcji uniwersytetu w społeczeństwie rynkowym*, P. Żuk (ed.), Scholar, Warszawa 2012, p. 10-11.

³⁰ *Przyszłość uniwersytetu. Debata z udziałem Włodzimierza Boleckiego, Tadeusza Gadacza, Małgorzaty Kowalskiej, Jacka Migasińskiego i Piotra Nowaka*, „Kronos”, 2011, 1, p. 234.

³¹ A. Zybertowicz, *III RP. Kulisy systemu*, Słowa i Myśli, Warszawa 2013, p. 20.

reduced and distorted versions, as a result of which it became an ineffective rival in the struggle for an intellectual and moral mandate³².

However, it is not always possible to understand morality as a manifestation of autonomy and an element favouring freedom. Durkheim noted that morality was rather a state of dependence since it did not serve the emancipation of the individual, separating them from the surrounding environment. On the contrary, its main function is to make them an integral part of the whole and, consequently, to deprive them of a part of the freedom of action³³. Thus, morality is understood here in deontological categories, where the structure of duties imposes a specific way of behaving and thus may limit. However, does it limit freedom, or does it limit frivolity? What would be a desirable practice in an academic context? Nevertheless, in order for scholars to enjoy the right amount of freedom of speech, it seems necessary to have appropriate ethical preparation so that, in line with Derrida's call, they can withstand restrictions imposed by state power, economic control as well as media, ideological, religious, and cultural influence³⁴.

Internal general conditions

The category of the internal general conditions of the freedom of speech of scholars is essentially understood to mean the retention of full mental faculties, as well as the ability to think critically independently. As Jürgen Habermas emphasized, critical reason can have power over dogma only because the will to be rational has become its own interest³⁵. Moreover, due to the critical attitude, it is possible to realize the cumulative nature of knowledge, because what we currently have is the achievements of many generations, hence the refuted theories and rejected procedures constitute the necessary steps leading to the final success³⁶. Erich Fromm warns, however, that the process of cognition itself should not be limited only to reason, but should be mediated by all the senses, the whole body³⁷. Reflection is therefore a necessary intellectual element of the experience and allows the implementation of goal-oriented activities³⁸.

³² A. MacIntyre, *Trzy antagonistyczne wersje dociekań moralnych. Etyka, Genealogia i Tradycja*, tłum. M. Filipczuk, Wydawnictwa Akademickie i Profesjonalne, Warszawa 2009, p. 269.

³³ É. Durkheim, *dz. cyt.*, p. 501.

³⁴ J. Derrida, *dz. cyt.*, p. 26.

³⁵ J. Habermas, *Dogmatyzm, rozum i decyzja – teoria i praktyka w cywilizacji naukowej*, [in:] J. Habermas, *Teoria i praktyka. Wybór pism*, tłum. M. Łukasiewicz, Z. Krasnodębski, PIW, Warszawa 1983, p. 375.

³⁶ J. Habermas, *Praktyczne następstwa postępu naukowo-technicznego*, [in:] J. Habermas, *dz. cyt.*, p. 423.

³⁷ E. Fromm, *Zdrowe społeczeństwo*, tłum. A. Tanalska-Dulęba, PIW, Warszawa 1996, p. 340.

³⁸ J. Dewey, *Demokracja i wychowanie. Wprowadzenie do filozofii wychowania*, tłum. Z. Doroszowa, Ossolineum-PAN, Wrocław-Warszawa-Kraków-Gdańsk 1972, p. 201.

The ability to think critically and independently is also a prerequisite for another group.

Internal specific conditions

The last group of conditions for the freedom of speech are internal specific conditions, i.e. those that are inherent in every scholar *individually*. It is impossible to generalize them in the form of an obligatory set of features, because in each scholar they may appear with different intensity. It is possible, however, to indicate certain desirable personality dispositions that would support the scholar in his or her pursuit of using and co-creating space for freedom of speech. In the first place, it is necessary to indicate the courage to express one's opinions in the forum – whether in the form of public statements, publication of the results of one's own research, posing extraordinary research questions, formulating hypotheses that may undermine the current order. A scholar should therefore be characterized by disobedience in thinking, as Stanisław Ossowski put it: "This is what his social service consists in, so that when performing his professional activities he would not be obedient in thinking. In this respect, he must obey neither the synod, nor the committee, nor the minister, nor the emperor, nor God."³⁹ Every scholar should be by definition "(...) an iconoclast, destroyer of prejudices and superstitions."⁴⁰

On the other hand, a scholar is not fit to make judgments without founding them in research material. Kazimierz Twardowski, the founder of the Lviv-Warszawa School, demanded that science be practised in a completely rational way, distanced from speculativeness and worldview issues. Scholars-philosophers are expected to reflect precision and clarity of expression and logical justification of the content conveyed⁴¹. He used to say that in order to truly practise scholarship, one should familiarize oneself with the matter in question in as much detail as possible from monographic studies and examine it from all sides and various perspectives so as to detect places that have not been illuminated and are as yet undiscovered by anyone⁴². This path requires systematic training of analytical skills and reasoning⁴³. In addition, the principle of scholarly reliability professed by the Twardowski school of thought requires that you demonstrate your readiness to revise your

³⁹ P. Hübner, *Cenzura w nauce – Stanisław Ossowski*, [in:] P. Hübner, *Zwierciadło nauki. Mała encyklopedia polskiej nauki akademickiej*, Polska Akademia Umiejętności, Kraków 2013, p. 485-486.

⁴⁰ J. M. Bocheński, *Sto zabobonów. Krótki filozoficzny słownik zabobonów*, Philed, Kraków 1992, p. 14.

⁴¹ W. Tyburski, A. Wachowiak, R. Wiśniewski, *Historia filozofii i etyki do współczesności. Źródła i komentarze*, Dom Organizatora, Toruń 2002, p. 630-631.

⁴² K. Twardowski, *Jak studiować filozofię?* [in:] K. Twardowski, *Wybór pism psychologicznych i pedagogicznych*, Ryszard Jadczyk, WSiP, Warszawa 1992, p. 408.

⁴³ K. Twardowski, *O pojęciu wychowania*, [in:] K. Twardowski, *dz. cyt.*, p. 415.

views when new facts reveal the truth from a different side⁴⁴. The founder of the Lviv-Warszawa School emphasizes the importance of the clarity and precision of the scholarly message:

Hence the supposition that the ambiguity of the style of some philosophers is not an inevitable consequence of factors inherent in their arguments, but has its source in the vagueness and ambiguity of their way of thinking. The case would then be that the clarity of thought and the clarity of style would go hand in hand, insofar as anyone who thinks clearly would also write clearly, and about an author who writes vaguely, one should think that he cannot think clearly⁴⁵.

A necessary procedure in scholarship is, therefore, proper justification of the claims made in accordance with the current state of knowledge and the scholar's own intellectual conscience. It does not, however, guarantee infallibility. Even if a scholar makes a mistake in the justification and is ready to revise his or her position, then he or she does not go against the requirement of scientific reliability⁴⁶. He or she is driven by a thirst for knowledge, which Twardowski referred to as an intellectual instinct⁴⁷.

What if there is a restriction?

When applying the above tetragon of conditions for the freedom of speech of scholars to the academic reality it is not difficult to notice that despite meeting external conditions, scholars themselves do not want to avail themselves of freedom of speech. This reluctance manifests itself in the thoughtless reproduction of the academic *status quo*, consent to mediocrity, or fear of the "new and unknown". Andrzej Zybortowicz notes that it is not uncommon that: "(...) a teacher pretends to teach and make demands while students pretend that they believe and learn (...)"⁴⁸. The perspective of "academic mediocrity" is rather closer to people who do not have academic potential, who belong, as Lech Witkowski puts it, to the "4th academic league"⁴⁹. In addition, legal changes and the promotion of academic research over didactics can make the best scholars compete for funding in grant competitions,

⁴⁴ W. Tyburski, *Etos uczonego w Szkole Lwowsko-Warszawskiej*, [in:] *Polska filozofia analityczna. W kręgu Szkoły Lwowsko-Warszawskiej. Księga poświęcona pamięci Ryszarda Jadczaaka*, (eds.) R. Wiśniewski, W. Tyburski, Wydawnictwo UMK, Toruń 1999, p. 131.

⁴⁵ K. Twardowski, *O jasnym i niejasnym stylu filozoficznym*, „Ruch Filozoficzny”, 2011, 4, p. 710.

⁴⁶ A. Dylus, *Problematyka etyki nauki u przedstawicieli Szkoły Lwowsko-Warszawskiej*, Wydawnictwo ATK, Warszawa 1987, p. 93-94.

⁴⁷ K. Twardowski, *Przedmiot nauczania i przedmiot poszczególnych nauk*, [in:] K. Twardowski, *Wybór pism psychologicznych i pedagogicznych*, WSiP, Warszawa 1992, p. 436.

⁴⁸ A. Zybortowicz, *III RP. Kulisy systemu...*, p. 50.

⁴⁹ L. Witkowski, *Ku integralności edukacji i humanistyki II. Postulaty – postacie – pojęcia – próby. Odpowiedź na księgę jubileuszową*, Wydawnictwo Adam Marszałek, Toruń 2009, p. 628-639.

and those who are unwilling to undertake this effort will be delegated to didactics. Then, as Piotr Nowak says, “undemanding students will be able to learn from the yellowed pages of old-time professors, immersed in the world of old freaks and fascinations (...)”⁵⁰ and “the lazy and indolent professor will have to settle for a modest remuneration for the title and his irremovable existence”⁵¹.

Durkheim notes that to eliminate the anomie it is necessary for there to exist or be created a group capable of forming a system of norms, which at the moment is missing⁵². What can be done in such a situation? Friedrich Nietzsche advises to adopt the optics of a free man, fully aware of the limits of his freedom and the inherent responsibility for himself and others, as well as the courage to set his own example⁵³.

Summary

Freedom of speech of scholars seems to be placed at the centre of the academic ethos as a fundamental and inalienable value. The article cites four areas that constitute the conditions for the existence and development of, or conversely for limiting, the freedom of scholars, especially freedom of speech. Of course, it is best for all of these conditions to be met, but this is not always possible. However, there are two fields of influence, and they have an impact on both, because they can influence the shape of legislation from the bottom up and the adopted and recognized academic ethos, and even more so have an impact on their own attitude towards the issue of freedom of speech. It is also worth remembering that scholarship is a specific area of collective human activity and undoubtedly has a huge impact on shaping social structures. It is also paid for sacrifice – in line with the statement by Durkheim that the subordination of personal advantage to any common benefit is always moral because it must assume the spirit of sacrifice⁵⁴, which undoubtedly requires respect for the idea of freedom as such, including freedom of speech.

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⁵¹ Tamże.

⁵² É. Durkheim, *dz. cyt.*, p. 9.

⁵³ F. Nietzsche, *Z genealogii moralności*, tłum. J. Dudek, E. Kiersztura-Wojciechowska, Wydawnictwo Vis-à-Vis, Kraków 2017, p. 44-45.

⁵⁴ É. Durkheim, *dz. cyt.*, p. 19.

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