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(1) In South Africa today, the notions of academic freedom and university autonomy are closely linked, and are often regarded as inseparable. But in point of fact they come from different intellectual traditions, and derive from different histories.

(2.1) The notion of academic freedom is the more recent. It derives from 19th century Germany. Its intellectual roots are Kantian and Protestant. It is very much concerned with the individual freedom of students and professors: freedom to pursue a chosen course of study; freedom to engage in teaching and research. This is to be secured by individual rights, enshrined in law, and protected by the courts. Because universities are supposed to be engaged in research which questions old verities and seeks to establish new truths, academics need greater protection of their intellectual freedom than is available to ordinary citizens. The ideal is that of a progressive society, where those who are engaged in serious intellectual work are accountable to posterity, and not to any censorship operation mounted by their contemporaries.

(2.2) The idea of university autonomy, on the other hand, is much older. Its roots are medieval and Aristotelian. Unlike academic freedom, which is specifically associated with the modern research university, this is compatible with the older ideal of a university, as a place for the preservation and transmission of knowledge. Its basic idea is that university life flourishes best, when the community of scholars enjoys a substantial degree of autonomy. It is a communitarian ideal, and sometimes sits uneasily with ideas of individual rights. It can sound on occasion very old-fashioned, but skilful adherents will point to coincidences with modern management theories, which show workers work best when they have some control over their work (the Hawthorn effect) and modern medical practice, which stresses the superior outcomes achieved among patients who take an active role in combating illness.

(3.1) Historically, the practices designed to secure academic freedom, have been enshrined in two different models.

(3.2) The Anglo-Scottish, or as some would have it, the Anglo-American, model - which might also be called: academic freedom via university autonomy: Here university autonomy is seen as the principal institutional underpinning of academic freedom - and historically universities in Britain and the United States derived much of their autonomy by being private institutions, or being state institutions held at arm’s length, through separation of the powers of church and state. In point of fact, institutional pluralism was also an important if unacknowledged part of the functioning of this model - a theological heretic expelled by the Calvinists could always join the Baptists, and so on.

(3.3) The German model: Historically, nearly all German universities were state institutions - all professorial appointments were made centrally by the relevant minister of education, and
even today universities in German-speaking lands enjoy very little institutional autonomy. (The model in France is similar - or perhaps one should say, is worse - lacking even the flimsy protections for autonomy provided by the German federal structure.) But academic freedom flourished in these countries, partly because of the high prestige generally accorded to academics and intellectuals, partly because of the struggle to secure academic freedom waged by German liberals such as the Goettingen seven, and mainly because of the build-up of a substantial body of law and practice about a body of individual rights designed to secure academic freedom. These were Lehrfreiheit: the freedom of professors, institutional guarantees - primarily tenure, to secure freedom of research and teaching; and Lernfreiheit, freedom to study, which, in the German context, meant primarily ready admission to university, and freedom to change between institutions, so as to follow the course or teacher of one's choice.

(3.4) The Americans in the 19th century followed the Anglo-Scottish model, but in the 20th century, with many American students studying in Germany, and with many German academics fleeing Hitler, aspects of the German system were adopted in the US. These included contracts with specified conditions of tenure for staff, and for students much freer movement between institutions than was customary in Britain. Powerful lobby groups such as the American Association of University Professors, (which strongly supported contracts precluding dismissal for unorthodoxy) and the American Civil Liberties Union (which strongly supported freedom of speech) aided in these developments. In the late 20th century a few advanced institutions adopted a policy of open admissions.

(4.) In South Africa, the doctrine of academic freedom was principally developed at two “open universities” - Cape Town and Witwatersrand, which in the 1950s sought to resist government attempts to extend apartheid and impose racial exclusiveness on their admissions and hiring policies. Deriving from the Anglo-Scottish tradition, the open universities formulated their stand overwhelmingly in terms of the notion of university autonomy. TB Davie's famous slogan listing basic freedoms: "the right of the university to decide who shall teach, who shall be taught, what shall be taught and how it shall be taught" was a ringing affirmation of university autonomy, but it noticeably did not mention freedom of research, and lamely tailed off into clauses limiting the claimed autonomy of universities to exclusively academic matters. In the booklet on the position of the open universities which a committee of academics compiled to support the universities in their struggle against the apartheid government, things are a bit clearer and a bit fuller: intellectual freedom is defended both for its own sake and for its contribution to university flourishing, and educational apartheid is attacked also in terms of the ideal of a meritocratic society: the only restrictions on university admissions or appointments which are at all legitimate are those concerned with excluding those failing to meet minimal standards of competence. Racial labelling is ipso facto abhorrent.

(5.1) After 1994, the developments were somewhat ambivalent. The country's magnificent new constitution explicitly enshrined academic freedom alongside other intellectual freedoms among the cultural rights proclaimed for the citizens of South Africa's new democracy. But what this meant was unclear. Because basic rights might need balancing against other basic rights, only cases decided in the Constitutional court could give any guidance and so far we have not had any of these.
(5.2) In the 1990s, there were a number of individual cases - notably the Caroline White case at Natal and the Robert Shell case at Rhodes, which involved egregious denial of tenure to outstanding (but controversial) academics. These would not have been countenanced in the American or the German systems; but because of historic weakness in protecting tenure and confused identification of academic freedom with university autonomy, they produced bad outcomes in the new South Africa. Both academics sought relief through the labour courts, which had been efficacious in protecting academic freedom at historically black institutions earlier, but (so far) to little avail. Here there was an outright conflict between academic freedom and university autonomy. (The Minister of Education was known to be sympathetic to Shell, but refrained from interfering through respect for Rhodes University's autonomy.)

(5.3) On the other hand, the new government eventually plucked up its courage in its hand and sought to bring some rationality and order to the chaotic sprawling system left over by the apartheid state, and sought to merge and rationalize some improperly functioning institutions. One cannot imagine a more clear violation of university autonomy than to instruct two universities to enter into a shot-gun marriage. Yet this happened in a number of cases, and not a few people, who were not government supporters, thought it was for the better. (Whether it was or not, I am not competent to say; perhaps it was both.) Clearly the main point here is that the new democratic regime enjoys a much greater legitimacy than the old, and this grants it a (perhaps more seductively) greater power to intervene without public outcry. This could be dangerous in the future, even if so far the results have not been unambiguously harmful.

(5.4) The 1990s also saw new threats to academic freedom emerge from the private sector, which in some cases sought control over intellectual property rights in inventions and discoveries made in sponsored or joint research. The classic economic rationale for government expenditure on research is that basic or fundamental research is a pure public good - its output is of a kind that will not happen if it is left to private industry alone, which is concerned with goods which can be privately appropriated. This may be a consequence of South Africa’s giving a higher priority to development than used to be the case. But it too represents a possible danger in terms of corrupting the universities’ free choice in research, and possibly leading to problems with freedom to communicate and publish results.

(5.5) Another unexpected threat came from the fashion for "managerialism", whereby strong executive figures usurped the powers of democratic institutions such as academic senates or faculties. This led to a considerable loss of morale, and showed that the autonomy argument also needed to be considered inside the universities. A related phenomenon was the pressure to "publish or perish" which created perverse incentives rewarding bad or superficial work, and also interfered with freedom of research.

(5.6) Other threats and pressures came as before from powerful external ideologies - neo-Marxism, identity politics, post-modernism, religious fundamentalism and African nationalism. It would take too long to explore these individually - and of course as with earlier movements such as neo-Thomism or existentialism in the 1950s, it would be wrong for the universities to shut their doors to these movements entirely. The problem is one of creating a critical atmosphere where adherents of different philosophies can be encouraged to enter into a debate which observes the norms of civility. This requires tact and judgement, and cannot be usefully addressed in general terms.
(6) To sum up: what needs to be done in the 21st century is: (i) Basic individual rights of students and professors need to be set out in explicit terms, and incorporated in contracts of employment. This should be straightforward for things like freedom of conscience ("no-one should be forced to proclaim publicly things he or she believes to be false"), but may be more difficult in the case of other academic rights. (ii) Proper thought needs to be given to the functioning of democratic academic institutions - teaching is often a joint or cumulative activity and decisions about this need to be taken in a fair and democratic manner. (iii) The universities and the state need to work out a modus vivendi which accords full recognition to the universities' need for autonomy, while not denying the legitimate claims of the state to speak on behalf of the public. Because the Aristotelian notion of "flourishing" is vague and can be implemented in many different ways, this may be the hardest thing of all.