

LIVIU ANDREESCU

ACADEMIC FREEDOM AND
RELIGIOUSLY-AFFILIATED
UNIVERSITIES

Liviu Andreescu,
Lecturer, Ph.D., English
Department, Spiru
Haret University,
Bucharest, Romania.
E-mail:
andreescu@gmail.com

Abstract: This paper explores the relationship between the principle of academic freedom and religiously-affiliated higher education. The arguments advanced are based on a general theory concerning the role of universities in a democratic society, and as such they are intended to apply to any such society, irrespective of the particulars of religious higher education in a specific national context. The article looks at three classes of arguments advanced against a “secular” standard of academic freedom: arguments on the nature of academic disciplines in religious colleges; arguments concerning the relationship between the institutional mission of religious universities and academic freedom; and arguments from democracy and religious freedom. The paper concludes that none of these arguments are successful in claiming a different standard of academic freedom for religiously-affiliated universities; and that, further, a “secular” standard leaves such institutions adequate room to express their religious dimension.

Key Words:
higher education,
academic freedom,
religious freedom,
religious universities,
institutional mission,
religiously-affiliated
institutions, faith,
learning, secular.

The typical assumption under which most scholars of academic freedom work is that the standards of academic freedom defined for “secular” academia should apply, with equal force, throughout the higher education system. Recently, this assumption has crept into international law instruments. PACE’s Recommendation 1762 (2006) on Academic Freedom and University Autonomy provides a defense of the freedom in question which combines the language of the 1988 Magna Charta Universitatum with the more up-to-date lingo of “the knowledge society” and “a new contract” to be reached between the latter and higher education institutions. The Recommendation also contains an apparently unremarkable proposition: that universities should be “*morally and intellectually* independent of all political or religious authority”.

Moral and intellectual independence from religious and political authority is something most universities in contemporary democracies would claim for themselves. Yet there is at least one class of institutions which are reticent in acknowledging such independence either formally (in charters, mission statements, even strategic plans), or in everyday practice: religiously-affiliated universities. This paper examines the relationship between academic freedom and religious higher education by looking at three types of arguments advanced against secular academic freedom standards (sections 3 through 5): concerning the nature of academic disciplines in religious colleges; on the relationship between institutional mission and professional autonomy; and “democratic”

arguments. In the first two sections I will offer a brief definition of academic freedom, followed by a discussion of why the issue is relevant today.

It is impossible to do justice, within the space of a short paper, to the variety of religious institutions of higher education in the West. I will base most of the discussion that follows on the American system, simply because it is in the US that the relationship between academic freedom and religious higher education has been most thoroughly explored. To defend this choice, let me add a few things. First, religious higher education in the US is of remarkable variety. It includes many types of relevant institutions, from theological seminaries to comprehensive research institutions and everything in between; from universities which are effectively run by the patron denomination, to colleges which owe limited allegiance to a specific church, to non-denominational (broadly “Christian”) institutions, and so on; from orthodoxly religious, to critical mass, to nominally religious colleges. What this means, in practice, is that American higher education covers a sufficiently large spectrum of institutions to be very relevant beyond the borders of the US. (One rather obvious exception is nevertheless worth mentioning, for the sake of clarity: unlike in Europe, there are no *public* religious higher education institutions in the US.)

Secondly, the discussion in this paper is informed by a general conception of the role of universities in a democratic society; and by a philosophical concept of academic freedom and its centrality to said role. As such, the arguments below apply, in principle, to any higher education system in any democratic society. While this is not to say, of course, that local details are irrelevant, it is to say that I regard my arguments as valid, *mutatis mutandis*, across the board. Since I believe it more fruitful to argue with particular examples in mind, rather than in the abstract, I have often referred to specific types of religiously-affiliated institutions (e.g., Catholic) and specific disciplines (e.g., academic theology). However, they are used as relevant examples (and, indeed, as hard test cases – see more below). In my view, the arguments presented herein retain their strength beyond such cases.

1. The nature of academic freedom

This is not the place for an in-depth exploration of academic freedom and its complexities. A succinct discussion seems, nevertheless, in order. The principle of academic freedom refers to the right of academics to be free from external constraints in teaching and research and, further, to freely criticize their institutions. A rather elaborate definition was offered by legal scholar William Van Alstyne. It is worth quoting extensively:

“academic freedom” is ... [the] personal liberty to pursue the investigation, research, teaching, and publication of any subject as a matter of professional

interest without vocational jeopardy or threat of other sanction, save only upon adequate demonstration of an inexcusable breach of professional ethics in the exercise of that freedom. Specifically, that which sets academic freedom apart as a distinct freedom is its vocational claim of special and limited accountability in respect to all academically related pursuits of the teacher-scholar: an accountability not to any institutional or societal standard of economic benefit, acceptable interest, right thinking, or socially constructive theory, but solely to a fiduciary standard of professional integrity.¹

Besides the principle itself, academic freedom is in practice associated with, to the point of being often considered inseparable from, a range of academic policies. They include university autonomy (sometimes referred to as “institutional academic freedom”), collegial self-administration or “shared governance”, and tenure (or other terms of employment and procedural arrangements ensuring a considerable measure of occupational security). One of the main purposes of these policies is to protect professional autonomy.

Several justifications are commonly offered for academic freedom. Usually they are consequentialist in nature. One claims that academic freedom is necessary to the pursuit of truth for the general benefit of society, including the immediate advantages derived from scientific discovery, technological innovation, and creative work.² A second argument sees academic freedom as essential to protecting societies against democratic tyranny by preserving universities as “institutional sanctuaries” of free thinking.³ The third consequentialist argument regards academic freedom as central to universities’ mission to foster individual autonomy. It is paralleled by another argument from autonomy, whose structure is deontological: academic freedom is necessary in order to *treat* individuals, including professionals, as autonomous beings.⁴ Finally, a distinct type of justification establishes not *why* academic freedom should be assured but that, once we have determined on independent grounds that it ought to be defended, the protection accorded must be especially strong. It includes a version of the slippery slope argument.

Very few, if any, justifications of academic freedom not advanced explicitly in the context of religious higher education provide religion-specific reasons for defending this principle. Neither do they define the practical aspects of academic freedom separately for the case of religious colleges or departments. In the following section I argue why the latter issue is of special concern.

2. The importance of religiously-affiliated universities

The fact that, when talking about universities in general, we usually think of essentially secular institutions demonstrates the extent to which the Humboldtian paradigm of the research university has changed higher education. Around 1850, 600 years after the first universities emerged, Oxford and Cambridge were Anglican universities: they excluded students with different religious options, and were explicitly supposed to turn over Anglican clerisy. France settled the matter of religious higher education in a Jacobine impulse, soon after the Revolution, by abolishing all universities, ancient and modern, and by establishing a secular, centralized University instead. In the United States, however, many of today's "national" universities started as denominational institutions and secularized relatively late, towards the end of the 19th century or early in the 20th, often under the influence of an imported German academic model.

In spite of the secularization process,⁵ universities which preserved and are actively cultivating their religious commitments more than nominally are still an important segment of North American higher education. In the US, two Catholic universities, Notre Dame and the Jesuit Georgetown, rank among the top 25 national universities in the annual college rankings published by USNews. Other Catholic institutions (St. Louis, Fordham, Marquette, Loyola, Catholic University of America) regularly make it into the top list of nationals.⁶ Catholics are not the only group with an institutional presence in the disputed USNews college rankings. Evangelical groups have their own representatives: Pepperdine, Brigham Young, Southern Methodist, Baylor, to name a few. Many of these institutions are universities with "high" or "very high" research activity according to the Carnegie Endowment criteria. Their educational offer is comprehensive and it includes doctoral degrees in more than a dozen disciplines. These national universities are accompanied by many religiously-affiliated liberal arts colleges, some quite prestigious.

In the most dynamic and influential system of higher education of the 20th century there are, therefore, over a dozen top universities with more than nominal religious commitments. Many of these institutions qualify, according to a recent typology, as "critical mass" religious universities, while a few are perhaps close to being "orthodox".⁷ In other words, they live their religious and/or denominational commitments intensely at the level of the academic community in general, and frequently also at the level of the academic disciplines. In many cases, performance in research goes hand in hand with an active promotion of religious commitment.

In an increasingly conservative America, religious higher education has become a promising niche market, so many institutions today market themselves actively as Christian. In a more thoroughly secularized Europe, lacking US-style civil religion, it is difficult to believe a similar experience is possible. Religious colleges are usually small and their educational offer

is not comprehensive. Nevertheless, new opportunities are emerging in this part of the world. A few critical-mass Orthodox universities are already operating in Russia.⁸ There are several religiously-affiliated universities in Romania as well (discounting theology schools in public institutions). One of the few accredited, the Emanuel University in Oradea (UEO), also offers a degree in business, a field outside the traditional province of religion-related higher learning in this country (theology, social assistance, music education). UEO is far from being a comprehensive college, but it has made a first step. Indeed, there are reasons to believe that religiously-affiliated higher education will increase in numbers and will attract more students in the future.⁹

Yet religious higher education also poses specific problems. Relevant institutions have distinctive institutional missions which emphasize the religious dimension. UEO describes itself on its website as charged with “training servants to extend the Kingdom of God”. Lest one should see this as a sample of Romanian parochialism, the website of Notre Dame University (US’s highest-ranking critical-mass Christian university) claims that the institution is equally dedicated to religious faith and scientific knowledge. Religious universities will typically seek to “integrate faith and learning”, a concept that has become a veritable guiding principle: they will likely offer Bible courses and the history of religion as part of the core curriculum; introduce religious perspectives in the social sciences and the humanities and, where possible, in other fields; select research topics and projects function of their relevance to the institution’s religious identity; involve students and faculty in religious extra-curricular activities and social service.¹⁰

Religious universities might also adhere to a different conception of collegiate organization and adopt principles different from those of secular academia. The pressure to include religious perspectives in the disciplines might assume undesirable forms. University administrations sometimes push the faculty too hard in order to make the university more appealing to a religious constituency or to conservative customers. To provide one recent example: the administration of a big US religious university proposed a change in the academic freedom policies which had been operating for decades. According to the new policy, research and teaching promoting “practices that are inconsistent with Baptist faith or practice” would not be supported by the university. A strong faculty senate rejected the proposal unanimously and it was later withdrawn, but other administrations might care less about shared governance, or exercise subtler pressures on teaching and research “inconsistent” with religious faith.

Perhaps unsurprisingly, the American Association of University Professors (AAUP) – the professional group which defined academic freedom in the US, put in place a system for its protection, and has been monitoring it since 1915 – came into being as a result of academic freedom

issues in religiously-affiliated universities.¹¹ Noted philosopher Arthur Lovejoy, a central figure in the AAUP, served as the head of a committee jointly appointed by the American Philosophical Association and the American Psychological Association to investigate the firing of a respected professor who had fallen out with the institutional orthodoxy in a Presbyterian college. Lovejoy's committee, out of which the Association eventually grew, left an enduring but contested legacy: a distinction between universities proper, enjoying full freedom of investigation, and educational institutions which are instruments of denominational (or political) propaganda. AAUP's landmark 1915 "General Report of the Committee on Academic Freedom and Academic Tenure" took up the distinction, describing as "proprietary institutions" all colleges and universities established "with the express understanding that the college will be used as an instrument of propaganda in the interests of the religious faith professed by the church or denomination creating it". "Concerning the desirability of the existence of such institutions", the Report famously continued,

the committee does not desire to express any opinion. But it is manifestly important that they should not be permitted to sail under false colors. Genuine boldness and thoroughness of inquiry, and freedom of speech, are scarcely reconcilable with the prescribed inculcation of a particular opinion upon a controverted question.¹²

This paragraph and later pronouncements from the AAUP have drawn heavy fire from scholars of religious higher education for what was perceived as a ham-fisted, "secular" approach to academic freedom, oblivious to the particularities of denomination-related institutions. The question remains as important as ever, in the US as elsewhere: is a secular standard of academic freedom onerous for institutions of higher learning with a strong religious commitment?

I will try to answer this question below by exploring the three separate issues announced in the preamble of this paper. The following section will discuss the nature of academic disciplines in religious universities. I will focus on academic theology, simply because it constitutes the "hard case": of all disciplines, theology is the most relevant to the mission of the church; it involves explicitly matters of doctrine; it is often taught by clergymen.¹³ Whatever level of academic freedom is appropriate for academic theology, therefore, *should constitute a reference or minimal standard for every other discipline in a religiously-affiliated college*. I will not refer to specific doctrinal arguments in favor of strong academic freedom, both because such arguments are usually specific to a particular denomination, whereas I intend my arguments to apply across the board; and because the matter requires a considerable degree of theological expertise.

3. Three conceptions of academic freedom in theology

At least three distinct views of academic freedom in theology have been advanced. I will refer to them here as the “restrictive”, the “revised secular”, and the “secular” conceptions.¹⁴

3.1 The restrictive view

The restrictive model downright rejects “what we consider the necessary philosophical foundations of the secular formulation of academic freedom”.¹⁵ It is premised on several distinct but related arguments: (a) that the “secular” conception of truth prevalent in the academic world is not appropriate in the case of academic theology; (b) that religious universities, and departments of theology especially, are inextricably bound to the sponsoring church and its mission, and must actively further the latter; (c) that the church may interfere in the workings of the academic organization when it deems such intervention necessary. In conclusion, the restrictive model claims that secular academic freedom is inappropriate for academic theology (and, many agree, in a religious college in general).

According to the restrictive view, the secular understanding of academic freedom is guilty of an “unreflective Platonism”, manifest in its abstract conception of truth. In particular, secular academic freedom cannot work in a religiously-affiliated college, and especially not in a theology department, because it remains completely alien to the religious conception of truth. Should a theology department assume a traditional conception of academic freedom, it would necessarily betray the principles appropriate to the discipline. As Pope Paul VI aptly summarized the restrictive paradigm, “true” academic freedom in theology must “look to the total truth of the human person” as revealed in the Scriptures and tradition and as given authoritative expression by the pontiff, the *magisterium*, and other ecclesiastical bodies; it must “take into account the proper function of the bishops” in the Church; and it should be limited by the right of the faithful “not to be troubled, confused, or led astray”.¹⁶

The type of academic freedom adequate in a theology department (and, it is often implied, in a religious university) must therefore acknowledge fidelity towards religious truth as authoritatively interpreted by the proper guardians of doctrine. A secular university can afford to operate in disregard of the notion of a truth known with certainty and adopt instead a pragmatic, open conception; it may also promote values lacking a transcendent source. Indeed, all these – claim the proponents of the restrictive view – lie somehow at the core of the secular concept of academic freedom. Religious groups, however, typically affirm a stable and final truth (often known through revelation). They also assent to ultimate, transcendent values. Faithfulness to these truths and values in the form

transmitted by the church is, to quote Pope Paul VI again, a “guarantee of one’s inspiration” as an *academic* professional. As Catholic philosopher Germain Grisez wrote, the theologian must respond to the official teachings in the same way in which a scientist responds to natural facts, or to the instruments recording those facts. An academic community “that wishes institutionally to claim a religious identity” will therefore “justly limit its academic freedom to the parameters of that religion’s tenets”. In the case of theology in particular, the secular model of academic freedom makes little sense:

The claim to an academic freedom that rejects the Church’s teaching authority as a limit upon it is tantamount to a profession of secularity, since the Church cannot be said to live its life or carry out its mission authentically and effectively except where its legitimate authority exercises its proper role.¹⁷

The “unreflective Platonism” of academic freedom as traditionally construed is also evident in its abstract conception of the university as an institution lacking an external source of authority. Such an image, it has been said, distorts the nature of all universities, which must depend on an authority beyond them – whether on the state, a community, a group of private sponsors, or a church. It is this group that defines a university’s mission and responsibilities; the latter hardly ever emanate directly from the professional faculty. This distortion is argued to be even more dramatic in the case of a religious university. The relationship between the latter and its sponsoring denomination may be one of law, but it does not have to be so. It is always, however, a “relationship of communion” and in this capacity it always presupposes the authority of the church over the academic institution. “Regardless of its judicial status, a [religiously-affiliated] college or university can never be considered a predominantly secular enterprise.” It must remain a member of the ecclesial family.¹⁸

If truth in academic theology is a matter ultimately determined by the church;¹⁹ and if, furthermore, the institutional relationship between the university and the patron church is one of subordination and, respectively, authority; then the third characteristic of the restrictive model (point (c) above) follows naturally: the church has the final word on the interpretation of faith and all matters theological in the academe, and may interfere whenever it deems it necessary to set things straight. Variations of the restrictive model distinguish between *church* teachings having an absolute authority – such as, in the case of Catholicism, the infallible teachings of the Pope when he speaks *ex cathedra*, or more generally the teachings of the sacred *magisterium* – and fallible teachings. With respect to the latter, theologians are usually granted some room for speculation. Nevertheless, irrespective of whether the teachings are fallible or infallible, the church and/or other appropriate bodies, hierarchical or

otherwise, may eventually interfere to support orthodox views and prevent departures from true belief.

Moreover, as noted above, the proponents of the restrictive view argue that the church has not merely a duty to uphold the truth, but also a social responsibility towards its flock. Should university theologians endanger the welfare of the believers by opposing or excessively qualifying authoritative teachings, spreading false ideas, or confusing the faithful, interference from the church constitutes a duty. Catholics, for example, condition the teaching of sacred sciences in a university on a church-granted mandate, which may be revoked. Heretics among the faculty, especially professors of theology, are sanctioned and, when necessary, dismissed by the university upon the request of the church hierarchy or community. Furthermore, deciding when the theories of theologians are dangerous or confusing to laity is a matter on which the church should have the last say.

What is the predicament of the academic theologian under the restrictive view of academic freedom? A Catholic theologian interested in, say, issues such as abortion or artificial contraception seems to have his hands tied behind his back. He may not explore the issues except in one direction, the one which agrees with the authoritative teachings of the Church. Should he, in reading the Church Fathers or any other relevant source of doctrinal authority, stumble upon a paragraph which, in his professional view, might suggest the compatibility of abortion or artificial contraception with Catholic doctrine, our theologian must either avert her eyes or read it aesopically to make it agree with the doctrine. Indeed, given the restrictive paradigm's conception of truth and theology, a competent theologian could not even discover such a fragment, simply because the fragment cannot possibly exist. If it is there, it only *seems* to say what it says, because it *really* says something else, something compatible with the officially sanctioned doctrine. In stumbling upon a seemingly authoritative source that might positively sanction abortion or artificial contraception, the Catholic theologian will have to, as a matter of *professional* duty, try to disconfirm any such interpretation, no matter how plausible it appears to her. Not only is he free from the "secular" duty to go wherever "truth" seems to lead him, as the most frequently cited justification of academic freedom proclaims, but he must avoid the path altogether.

Religious freedom ensures the right of every religious community to fashion for itself a theology of the kind sketched above, and to invest any source of truth with the authority it deems appropriate, including absolute and unchallengeable authority. In a democratic society, religious communities may freely preach such truths and disseminate their ideas and norms, among others through higher education institutions. But if one accepts the restrictive conception of theology, it becomes unclear why this discipline should have a place in a university. Not any discipline, with any specific "standards of truth", qualifies as an academic discipline just as not

every self-styled higher education institution, with any mission, qualifies as a university.

Academics are professionals. They belong not to one, but two professional communities.²⁰ The first is the disciplinary community, which stretches beyond the borders of the academia and includes members of other professional groups. Political scientists working in think tanks, advising the government, battling in NGOs, and teaching in academia all have a place in the Political Science Association. The second professional community is that of academics, irrespective of their specialization. We do not generally perceive a contradiction between these two professional commitments, despite occasional jealousies and high-mindedness on one side or the other. To a considerable extent, this is so because universities provide the main and often exclusive gateways to the professions. Engineers, physicians, philologists etc. are all trained in universities by academic engineers, academic physicians, and academic philologists. The norms of the academic profession and those of most other professions overlap to a considerable extent, although additional or more rigorous responsibilities are frequently appropriate in one respect or another. The agreement of the two sets of professional norms – the academic and the disciplinary – remains fundamental to a university, lest conflicting commitments make the exercise of either of the professions impossible.

This has not always been so. When Kant and Fichte argued, around 1800, against professional training in the university, one of their reasons was what they perceived as the non-academic character of vocational studies. According to Kant, the civil servant status of law professors and law graduates forced them to teach and study a dogma (positive law) which, as a matter of professional duty, demanded a measure of assent to official doctrine inappropriate for higher learning. Law professors as well as theologians were bound by a commitment to an external authority: the State and, respectively, the Scriptures.²¹ Vocational studies were at odds, therefore, with the academic ethos. When theology and law were re-fashioned as full academic disciplines in the modern, Humboldtian university, they did so as open, scientific disciplines, shedding external commitments.

Whatever their internal standards and methods, academic disciplines should remain compatible with the ethos of the academic profession.²² The pastoral, catechetical conception of theology proposed by the restrictive model, which regards academic theology as an arm of the church, hardly agrees with this ethos. Academic theology so understood is not autonomous, just as there is little professional autonomy for the theologian. Both have to bow before authorities outside the professional community of academics. The issue, it needs to be emphasized, is not academic theology's dependence on a particular viewpoint or perspective (Christian, Muslim, Catholic), which internally structures the discipline, but the incompatibility of the restrictive theory's view of professional

autonomy with the *academic* enterprise. After all, an academic has about as much freedom to surrender her professional autonomy (and remain a professional) as has a citizen in a liberal democracy to sell himself or herself as a slave.

Finally, the restrictive view of academic theology poses a distinct problem for the so-called “academic freedom rights” of students. Higher education is supposed to further the latter’s autonomy by exposing them to alternative views and challenging deeply held dogmas. For this reason, students have a right not to be indoctrinated: they may be asked to accurately explain theories, apply them, work within specific paradigms, but not to *assent*, as a matter of personal belief, to these theories and paradigms.²³ In other words, a student in a Catholic theological department must prove, in order to pass, that she understands correctly the relevant Catholic doctrines, and that she is able to adequately apply them to specific cases. But such a student should not have to demonstrate a *personal* commitment to Catholic dogma or to the Catholic faith. Yet if it is the job of the church to make sure that the constituency, including – or especially – students, are protected from ideas incompatible with its official teachings; and if this duty legitimates church interference with academic life in order to guide students on the path to personal rather than “merely” *professional* enlightenment, then it is hard to see how academic theology can respect students’ right to non-indoctrination.

3.2 The revised secular model

The revised secular model acknowledges the incompatibility between the type of theology described above and the professional ethos of the academic. It proposes a different relationship between theology and the sponsoring religious denomination. In terms of the three-point definition of the restrictive model offered above, the revised secular model typically accepts a weaker version of (a), proposes a milder version of (b), and rejects (c).

With respect to the relationship between academic theology and the church (point (b)), the former is no longer primarily an instrument for the preservation and dissemination of official doctrine, a catechetical arm of the sponsoring religious group. Various roles have been suggested instead: to mediate between sources of doctrinal authority and the community of believers; to assist the religious group in obtaining a better understanding of the truths they announce. In other words, academic theology no longer shares *directly* in the church’s pastoral mission. It plays, instead, an important critical role, assisting in the growth of theological knowledge.

With respect to the question of truth in academic theology (point (a)), the revised secular view brings the latter closer to the other academic disciplines, usually also providing doctrinal reasons for according theologians a considerable measure of freedom of inquiry. Typically, the

revised secular model sees the task of the theologian not as restating or enriching the doctrine, but as exploring it to gain better insights. Some Catholic philosophers advanced a conception according to which, given the fact that the human linguistic and symbolic expression of faith remains inherently imperfect, the function of theology is to interpret revelation and church teachings “in the light of the signs of the times”, that is, according to the spirit of the age.

The central issue for the revised secular model remains the way in which it defines professional competence in academic theology (point (c) above). Ultimately, this will determine the relationship between academic theologians and the sponsoring religious group. The “revised secular” solution has been to suggest standards of theological competence such as the pursuit of one’s professional activities “within the boundaries of one’s fidelity to the faith”, while de-legitimizing any direct interference of the church in academic business.²⁴

In this case, it seems to me that the revised secular paradigm is struggling to fit the square peg of a dynamic academic theology into the round hole of a doctrinal authority still residing outside the academic community. Two distinct scenarios are possible. In the first, to the extent to which academic competence in theology depends on the substantive criterion of the compatibility of professional judgments with church doctrine, the revised secular view ends up being practically indistinguishable, with respect to point (c), from the restrictive model of academic freedom. For even if a hierarchy external to the academic community will not interfere in academic life, and instead leave sanctions to internal academic bodies, the question of “dogmatic imperialism” remains pertinent. As it has been noted, certain “criteria of scholarly theological competence, such as faith commitment and adherence to the dogmas of faith as presuppositions of the discipline of [academic] theology, are difficult – if not impossible – to reconcile with the atmosphere of freedom required by all scholars in every college and university.”²⁵

The problem is compounded by the fact that the administration of religious colleges (presidents/rectors, provosts, deans), as well as a large part of the faculty of a theological department, are likely to have strong connections to ecclesiastical or other denominational bodies. Some will even be ordained, and as such be bound to the sponsoring church and feel obligated by decisions made by the church hierarchy. Although the church may not directly intervene in academic life, it may easily do so indirectly. It is the legitimate right of a church to identify a point of view expressed by an academic theologian as incompatible with its teachings. But as long as this represents a criterion in the determination of scholarly competence, it will matter less whether the church directly sanctions the professor or whether the sanction comes through the administration or even the professor’s peers.

If, in the second scenario, the revised secular paradigm excludes *substantive* criteria in the determination of academic competence and opts instead in favor of the usual *methodological* criteria common in most other academic disciplines, the revised secular paradigm will practically boil down to the secular conception of academic freedom examined below.

3.3 The secular view

The secular paradigm clearly separates academic theology (and other disciplines in a religious college) from the sponsoring church, frequently through a distinction between theology done within the university and theology done within the church. Academic theology is not a discipline *in* and *for* the church, but a discipline *in* and *for* the university:

If theological study is to occupy a place in the [religious] university, it must be conceived as a full academic discipline *whose methods are appropriate to the nature of the university*. ... What is precluded is the imposition – by authorities either *within* or external to the university – of the content of those sources or of a confining dogmatism, whatever the form.²⁶

Naturally, the academic theologian still has an obligation to present the official doctrine of the church and to distinguish it from her own beliefs. The competent academic theologian should at all times “clearly portray the teaching of the church and recognize his or her own positions for what they are, even though he or she holds them as true.”²⁷ On the other hand, she has a large degree of freedom in reaching conclusions different from the former, which may not in any way interfere with university affairs.

Furthermore, the question of a scholar’s own faith becomes irrelevant to her ability to carry out her professional duties.²⁸ One may be a good Orthodox theologian without being a believer, or, while being an Orthodox, if one comes to doubt some of the basic tenets of the Orthodox faith. (Similarly, one may be a good biologist even if one stops, for justifiable scholarly reasons, believing in evolution.) It may well be, as Michael McConnell has noted, that an “atheist, however brilliant, is likely to be a deficient theologian”.²⁹ Yet the question is not whether an atheist is *likely* to be a bad theologian, but whether the rare atheist who is a good theologian should be barred from teaching theology just because he is – or has become, often for professional reasons – an atheist.

According to the secular paradigm, it is method, rather than faith or the substance of one’s professional beliefs regardless of the method through which they were reached, that defines disciplinary competence. This is not to say that all types of academic theology will share the same methods, or that the methods in question are those of “science” abstractly understood and need not consider the input of authoritative sources of

religious truth. The norms of academic theology must be appropriate to the faith it is a theology of. Catholic theology and Anglican theology will be different: they will start from different premises, work on different assumptions, attach different weights to different sources of doctrine, recognize different voices as authoritative, and so on. But the substance of one's professional beliefs cannot by itself be a criterion of one's academic competence; the methods one uses to reach those beliefs are. To go back to the analogy above, failure to accept evolution cannot serve as an indication of one's incompetence as a biologist, though rejecting evolution without being able to explain why, perhaps coupled with a refusal to teach evolution, may call into doubt one's professional ability.

It may be argued here that the comparison above is unwarranted, as theology is more than an impersonal science; it is also, and fundamentally, a personal spiritual experience and a way of life. In my view, there are three ways to answer this objection. First, all science is, in some sense and to some of its practitioners, a personal spiritual experience and a way of life. Aren't scientists often described as passionate, or as fully committed to their – to use Weber's famous, religiously-inflected phrase – calling? Secondly, *academic* theology as I defined it above should be scientific theology first and foremost, and only then a matter of personal spiritual experience. Finally, although there may be some tensions involved, I believe doing serious science and treating one's discipline as a spiritual vocation are not mutually exclusive.

It is important to recognize that, in rejecting (a) distinct standards of competence for theology as an academic discipline; (b) a relationship of authority between sponsoring churches or religious groups and academic theology; and (c) the former's right to interfere with academic life, the secular model of academic freedom in religious universities *does not oppose sectarian, "proprietary" higher education*. It merely argues, in a fashion similar to AAUP's 1915 Report, that sectarian education is not appropriate within the context of a university. Naturally, any religious group remains free to reject secular academic freedom *in toto*, as long as it does not claim that its educational institutions or theology schools should be accredited as universities.

4. The primacy of institutional mission

The argument in favor of a secular standard of academic freedom in theology departments is grounded in the notion that any discipline calling itself "academic" will eliminate mandatory adherence to a doctrine produced outside the professional community. This applies to all departments in a religious university. As (Christian) sociologist Robert Wuthnow wrote, if a researcher is serious enough about the subject of his or her research to want to understand it from whatever perspective seems fruitful enough, "good Christian scholarship may be virtually

indistinguishable from scholarship done by anyone else”.³⁰ Does this mean, as the enemies of secular academic freedom contend, that a religiously-affiliated university will be impossible to distinguish from a secular higher education institution?

Such authors assume that a secular standard of academic freedom will necessarily lead to the secularization of religious universities, to the point where all links to their original religious mission are severed. Consequently, they argue that institutional mission and, therefore, institutional autonomy, should enjoy precedence over individual or professional autonomy. The argument generally runs like this: in any democratic society the right of an institution to pursue and fulfill the legitimate goals for which it was established cannot be abridged. Therefore, any principle of academic freedom must be qualified with those institutional goals in mind:

To suppose that teachers in a Christian college or university would conduct themselves as if they were not bound by ... their institution’s Christian commitment, or that their concept of freedom would match that of a teacher in a secular institution, is utterly naïve. Whether they are recommending books for their courses, writing speeches, or engaging in publications, teachers in a Christian college or university *must make their first priority reflecting the purpose of their institution, to which purpose they have voluntarily committed their career.*³¹

The mission of the university, “not individual academic freedom, is by definition the reason for the university’s existence.”³² Consequently, a religiously-affiliated higher education institution “should be allowed to determine for itself what its mission is and what reasonable limitations on individual and institutional academic freedom are appropriate to preserve its mission.”³³ As Douglas Laycock urged, accrediting institutions should “back off” and let religious colleges “struggle with their conflicting commitments” by themselves.³⁴

The argument of the precedence of institutional mission to academic freedom is based on two distinct but related confusions. First, professors have “voluntarily” devoted their careers not only to an institution, but also to a profession – that of an academic. The ethos and deontological norms of this profession impose constraints on professional activities irrespective of the institution within which they are carried out. If the stated mission of University X is to indoctrinate morally, a professor indoctrinating her students would violate the ethical norms of her profession despite the fact that she would be fulfilling the institutional mission.

This observation suggests the second error in the argument from institutional mission. While it is true that any institution is free to define

its mission insofar as it remains within the bounds of the law, not any institution so doing must be acknowledged (in the case of an university, accredited) as what it claims to be. Why would a state (or a professional organization, or an independent agency) accredit a university irrespective of its academic freedom policy? We would not want any institution offering health care to the sick to be certified as a clinic or hospital even though, say, its admission policies were highly restrictive (they only admitted members of a certain religious group). We would still want such centers to exist and to pursue their mission, but we would not grant them a certain status and the benefits associated with it (tax exemptions, access to governmental funds and programs, etc.) unless they complied with specific standards.

5. Democratic arguments

Some pleas against secular academic freedom in religious universities are based on broader arguments from democracy or religious freedom. It has been argued that democratic societies have a separate, distinct interest in granting religious universities the autonomy to define for themselves their own standards of academic freedom as they deem fit. Noted American legal scholar Michael McConnell offered two distinct arguments of this sort.

The first is a consequentialist argument strikingly similar to the so-called “democratic argument” frequently cited as a justification for the (secular) principle of academic freedom. According to McConnell, “religious institutions have made significant contributions to the ethical, cultural, and intellectual life” of the nation. Moreover, it is their specific, distinct character which “makes them able to resist the popular currents of majoritarian culture and thus to preserve the seeds of dissent and alternative understandings that may later be welcomed by the wider society”. As a result, imposing secular academic freedom on religiously-affiliated colleges would undermine their ability to continue making this distinctive contribution to democratic society.³⁵

Philosopher Judith Jarvis Thomson and legal scholar Matthew Finkin responded to this argument by noting that, while the social contribution of religiously-affiliated colleges remains undeniable, the notion that academic freedom would undermine such institutions or render their distinctive role impossible remains empirically unproven.³⁶ Indeed, there are numerous examples of religious universities which adopted secular standards of academic freedom while still making important and unique contributions to their societies. Secondly, for McConnell’s argument to work what needs to be proven is not merely that religious colleges contribute to the common good, but that the contribution in question continues to exist even when it presupposes limitations on freedom of inquiry. Furthermore: it must be shown that, assuming such a distinct

contribution survives restrictive standards of academic freedom, it is sufficiently significant to *justify* the use of coercive means. In the form advanced, McConnell's argument shows nothing of the sort.

Something else is wrong with McConnell's first democratic argument. One may assume that *any* "proprietary" higher education institution would make a *distinctive* contribution to the life of a democratic polity. It is precisely its proprietary nature which renders it "special", simply because any proprietary university would today represent a minority voice. But then the simple assertion of a "contribution by distinctiveness" is not sufficient to legitimize low standards of academic freedom in a university.

The second argument provided by McConnell runs as follows: "forcing" secular academic freedom on religious colleges would undermine the ability of religious communities to preserve, transmit, and disseminate their beliefs. As such, it would be a violation of their religious freedom.

The degree to which conditioning the accreditation of a religious university on a secular standard of academic freedom undermines the religious community sponsoring that institution constitutes, again, an empirical issue. To my knowledge there is hardly any non-controversial answer to the question. But even admitting that secular standards of academic freedom in religious universities hamper the ability of the sponsoring church or community to disseminate its faith, how does this show that refusal to accredit a religious college which does not comply with such standards constitutes a violation of religious freedom? The reason cannot be that *any* decision weakening the ability of religious communities to preserve and disseminate their faith constitutes in and of itself such a violation. Many things weaken this ability without thereby being illegal, immoral, or inappropriate.

Is it then, perhaps, the fact that secular standards are "forced upon" a religious institution? In fact, this happens all the time in a democratic society. Hospitals and clinics run by religious associations, or social service centers affiliated to religious communities, all have to comply with secular standards designed irrespective of the religious or non-religious identity of the institutions in question. Otherwise they would not receive the requisite certifications as clinics or social service centers. The notion that "forcing" secular academic freedom on a religious university, for example through accreditation mechanisms, constitutes a violation of religious freedom simply because secular academic freedom negatively affects the ability of religious groups to further *some* of their legitimate goals is unwarranted. What has to be proven, instead, is that conditioning the status of a university (or hospital) on secular standards is illegitimate. Again, McConnell does nothing of the sort and, so far as it can be judged, experience shows otherwise.

Conclusion

The standards of academic freedom in a religiously-affiliated university should be the ones originally defined for secular universities. Would such an arrangement necessarily turn the religious university, sooner or later, into a secular institution? There seems to remain sufficient room for a religious university to assert its specific mission even with high standards of freedom of inquiry. Its curricula, including the latter's core section, may emphasize the religious dimension; the life of the university community and extra-curricular activities involving students and faculty may do the same; the university could impose stricter behavioral norms to match its presumably more rigorous moral code.

Since academic freedom is primarily a freedom of faculty and only to a limited degree of candidates to a professorial position, a university with a religious mission may devise specific, religion-biased hiring criteria.³⁷ The meaningful aspects of a candidate's personal life, of her public activities, and of her professional career may be weighed accordingly. Even after hiring, the institutional mission may reflect itself in the subjects investigated by academics. Research programs in a sociology department may focus on issues with a special religious (even sectarian) relevance. Sometimes the religious commitments of researchers will be reflected in a special sensitivity to specific subjects or arguments which uncommitted professors might ignore or underestimate.

The institutional mission may also reflect itself in some types of administrative decisions. The university may establish some institutes and departments (say, an Institute for Religious Studies) rather than others (an Institute of Marine Geology). It will finance, all other things being equal, a large number of projects having a special significance for its religious purposes (although it remains important not to stifle other professional interests). There are, it appears, a great many ways in which the institutional mission of a religious university can manifest itself under "secular" standards of academic freedom.

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Notes:

¹ William Van Alstyne, "The Specific Theory of Academic Freedom and the General Issue of Civil Liberty," in *The Concept of Academic Freedom*, ed. Edmund Pincoffs (Austin: University of Texas Press, 1975), 71.

² Richard De George, *Academic Freedom and Tenure: Ethical Issues* (Lanham: Rowman & Littlefield, 1997), 74.

³ Amy Gutmann, *Democratic Education* (Princeton: Princeton University Press, 1999), 174-77.

⁴ Rolf Sartorius, "Tenure and Academic Freedom," in *The Concept of Academic Freedom*, ed. Edmund Pincoffs (Austin: University of Texas Press, 1975), 135-36.

⁵ George Marsden, *The Soul of the American University: From Protestant Establishment to Established Nonbelief* (New York: Oxford University Press, 1994).

⁶ In a total of around 3,500 tertiary institutions. Of approximately 1,600 private institutions, about 900 have some religious affiliation (including nominal); many are theological institutes.

⁷ This typology distinguishes "orthodox", "critical mass", "intentionally pluralist", and "accidentally pluralist" universities. In pluralist institutions religious commitment is nominal; the first two types promote "the Christian vision as the organizing paradigm". Robert Benne, *Quality with Soul: How Six Premier Colleges and Universities Keep Faith with Their Religious Traditions* (Grand Rapids: Eerdmans, 2001), 49.

⁸ Konstantin Petrenko and Perry Glanzer, "The Recent Emergence of Private Christian Colleges and Universities in Russia: Historical Reasons and Contemporary Developments," *Christian Higher Education* 4.2 (2005).

⁹ For instance, the new 3-year cycle will likely reduce the opportunity costs for getting a degree, so more people may end up in college, and the variety of colleges may increase to respond to the new constituencies. Also, European higher education is still weakly differentiated internally, but this is changing, and the re-organization of university study in the framework of Bologna seems to have added some limited impetus to the transformation.

¹⁰ George Marsden, *The Outrageous Idea of Christian Scholarship* (New York: Oxford University Press, 1997), 52-84.

¹¹ Walter Metzger, "Profession and Constitution: Two Definitions of Academic Freedom in America," *Texas Law Review* 66 (1988); and Marsden, *The Soul of the American University*, 301ff.

¹² AAUP, "General Report of the Committee on Academic Freedom and Academic Tenure (1915)," in *Freedom and Tenure in the Academy*, ed. William Van Alstyne (Durham: Duke University Press, 1993), 394.

¹³ Both churches and religiously-affiliated universities have generally acknowledged that theology constitutes the main battlefield. Philip Gleason, *Contending with Modernity: Catholic Higher Education in the Twentieth Century* (New York: Oxford University Press, 1995), 14; David O'Brien, *From the Heart of the American Church: Catholic Higher Education and American Culture* (Mayknoll: Orbis, 1994), 84-5.

¹⁴ Adapted after James John Annarelli, *Academic Freedom and Catholic Higher Education* (New York: Greenwood Press, 1987).

¹⁵ Annarelli, 70.

¹⁶ Quoted by Annarelli, 64-5.

¹⁷ Quoted by James Jerome Conn, *Catholic Universities in the United States and Ecclesiastical Authority*

(Roma: Editrice Pontifica Universita Gregoriana, 1991), 319-20; also see Charles Curran, *Catholic Higher Education, Theology, and Academic Freedom* (Notre Dame: University of Notre Dame Press, 1990), 116-18.

¹⁸ Conn, 318-9.

¹⁹ Conn explicitly denies that theology is "like any other academic disciplines within a university", "since part of its data is divine revelation guaranteed by the Church through the hierarchy." (Conn, 304)

²⁰ This is an old debate among sociologists, whether academics are properly speaking professionals. See, for instance, Peter Blau, *The Organization of Academic Work* (New Brunswick: Transaction, 1994), 11-13.

²¹ Immanuel Kant, *The Conflict of the Faculties. Der Streit der Fakultäten*, ed. Mary J. Gregor (Lincoln: University of Nebraska Press, 1992), 25ff.

²² Which for practical purposes is identical to Merton's "scientific ethos", defined as a combination of universalism, (scientific) communism, disinterestedness, and organized skepticism. See Robert K. Merton, "The Normative Structure of Science," in *The Sociology of Science: Theoretical and Empirical Investigations* (Chicago: University of Chicago Press, 1979), 268-69, 270-77.

²³ See, for instance, A. Dirk Moses, "Academic Freedom Today: A Student's Perspective," *Bulletin of the Australian Society of Legal Philosophy* 16 (1991).

²⁴ Annarelli, 80-1.

²⁵ Annarelli, 198. He refers not to academic theology in general, but to Catholic academic theology specifically, yet his arguments are general. Given its hierarchical structure, Catholicism constitutes a "hard" case.

²⁶ Annarelli, 134.

²⁷ Curran, 176.

²⁸ Annarelli, 147.

²⁹ Michael McConnell, "Academic Freedom in Religious Colleges and Universities," *Law and Contemporary Problems* 53 (1990): 319.

³⁰ Quoted in Marsden, *The Outrageous Idea of Christian Scholarship*, p. 66.

³¹ Ben Fisher, *The Idea of a Christian University in Today's World* (Macon: Mercer University Press, 1989), 102, my italics.

³² James Gordon, "Individual and Institutional Academic Freedom at Religious Colleges and Universities," *Journal of College and University Law* 30.1 (2003): 7. This position is apparently also supported by Anthony Diekema, *Academic Freedom and Christian Scholarship* (Grand Rapids: Eerdmans, 2000), 72; but see 79-81.

³³ Gordon, 25.

³⁴ Douglas Laycock, "Academic Freedom, Religious Commitment, and Religious Integrity," *Marquette Law Review* 78 (1994): 310.

³⁵ McConnell, 311-18. There are, in fact, three arguments, but I find the third one (that a "religious" standard of academic freedom is in line with the goals of "secular" academic freedom) quite unclear.

³⁶ Judith Jarvis Thomson and Matthew Finkin, "Academic Freedom and Church-Related Higher Education: A Response to Professor McConnell," in *Freedom and Tenure in the Academy*, ed. William Van Alstyne (Durham: Duke University Press, 1993), 421-23.

³⁷ See the discussion in Laycock, 298-99.