

Author: Henry Reichman. Johns Hopkins University Press (2021), Baltimore, Maryland, USA. 248 pg.

Academic freedom is the sine qua non of universities in common law countries as well as those in Western Europe and, indeed, is central to the functioning of universities in all but those countries with repressive governments. Nowhere, however, are there more skirmishes about the meaning of 'academic freedom' – and the practical consequences of its definition – than in the United States.

There are two main reasons for this. The first is the large number (some 5,300) of higher education institutions in the country, which means there are more places where debate over the meaning of academic freedom can arise. The second, as Henry Reichman shows in his recent and insightful book, *Understanding Academic Freedom* (something of a sequel to his *The Future of Academic Freedom* published in 2019), part of the reason for this is the litigious nature of the country.

In 1915, to take the year that the American Association of University Professors (AAUP) was founded, there were 49 different legal regimens and court systems divided between the 48 states and the federal government.

One of the more surprising facts Reichman elucidates is that the link between academic freedom and the First Amendment ("Congress shall make no law ... abridging the freedom of speech") comes rather late in the day.

In 1915, the AAUP argued that colleges and universities held "a public trust" to advance knowledge and that limits on professors' research or teaching were injurious to the mission of advancing "the sum of human knowledge". Even error was protected, for instead of dogmatic truth, wherever scholarly work was at a particular moment was but "an intellectual experiment station".

Surprisingly, perhaps the most important legal formulation of what academic freedom is on the ground, so to speak, came in a concurring opinion in the 1957 case of *Sweezy v New Hampshire* that doesn't reference the First Amendment.

In his concurring opinion, associate justice Felix Frankfurter said that each university possessed four essential freedoms: 1) to determine who may teach; 2) what can be taught; 3) how it is taught; and 4) who will be admitted.

Three years later, however, the Supreme Court used the case of *Keyishian v Board of Regents of the University of the State of New York* to place academic freedom under the umbrella of the First Amendment.

(F: N. M. Greenfield, UWN 23.10.21)