Jakub Jirsa (ed.)

On Liberal Education and the Autopoiesis of Universities

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Introduction

Jakub Jirsa

The texts presented in this issue discuss several issues concerning the contemporary problems of universities around the globe. The central issue in the following chapters will be the self-constituting character of the university (the so-called *autopoiesis*). This topic will be approached within a broader framework of liberal education as such. Finally, we gathered several detailed case studies illustrating our more general points.

Our understanding is that universities currently face common problems across the globe. Although the number of universities, students and teachers have increased hugely over the last thirty years, one can perceive uncertainty, pressure, and fear at these institutions. We sense that part of this problem is that universities are bodies foreign to contemporary popular democracies. The separation between universities and their social and political environment creates an atmosphere of mutual distrust, leading to the institutions regulating the operation of universities by imposing controlling measures alien to the working of universities, such as metrical evaluation. In the end, however, this only increases the distrust and uncertainty mentioned above.

The university was the application of the idea that the powers of the human intellect can find the truth in an institutionalized way. At the beginning of the modern universities established during the nineteenth century, education was understood as part of the liberation of mankind, and this was not a solitary enterprise. Instead, it was supposed to happen in an institutional environment. As a result, the specialized branches of knowledge are considered authoritative – knowledge resulted in authority.

The establishment of modern universities took place at a time of growing national self-consciousness and self-constitution. This is particularly visible in the case of American and German universities. The national ethos of the modern university is evident in the writings of Friedrich Schiller, Friedrich Schleiermacher and Wilhelm von Humboldt, who wrote that the establishment of the university "happened directly for the sake of the moral culture of the nation." Even Karl Jaspers in his 1947 essay "Volk und Universität" wrote, speaking as the voice of university professors: "[W]e want to say: we are coming from the nation which we serve. We hear the voice of the nation in us especially when we find ourselves in unanimity with peasants, artisans, workers, merchants and all those with whom life and conversation bring us together."[1] The modern university is perceived here as one of the institutions of the nation-state, as one of the institutions by which the nation progresses and in which it takes pride.

A further characteristic inherently built into the concept of the modern university is its anti-utilitarian character. The most famous anti-utilitarian argument was expressed by Cardinal Newman in his book *The Idea of a University Defined and Illustrated* (1852, 1859). However, we can encounter very similar ideas, for example, in Johan Benjamin Erhard's "Über die Einrichtung und den Zweck der höheren Lehranstalten" (1802). F. W. J. Schelling called "the apostles of utility" "shallow brains," and Johann Christian Reil even suggested that they be expelled from universities since they did not pursue science for itself.

Universities are an ambivalent element in modern popular democracies. As Stephan Collini writes, "[W]e should recognize that universities are in some senses inherently elitist in a restricted sense of that term. It's of course true that intellectual enquiry is in one sense irreducibly democratic – the best arguments and the best evidence are decisive, no matter who puts them forward. But in another sense it is unavoidably selective – not everyone is going to be equally good at conducting the enquiry at the appropriate level."[2]

Tom Nichols further shows that distrust of expertise is another aspect of our era. If all opinions are equal, namely the quality does not matter, an expert is no different from a layman. Moreover, ignorance is, in

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1   Karl Jaspers, "Volk Und Universität," in *Schriften Zur Universitätsidee*, ed. Oliver Immel, Gesamtausgabe (Basel: Schwabe Verlag Basel, 2016), 203–11. Transl. by Jakub Jirsa.
2   Stefan Collini, *Speaking of Universities* (London: Verso, 2017), 27.

many cases, seen as a positive sign of autonomy.[3] It is not only ignorance itself that is the problem, it is ignorance being promoted among the values of contemporary society under the heading of "autonomy" or "authenticity."

Research – not only in the humanities or social sciences – is closely linked to communication. This communication takes place not only among researchers, but – and this is essential for universities – among all members of the group called the academic community. Further, this conversation is not limited to academia. Universities are supposed to be the centre of social life, educating future citizens and communicating with society. However, this communication has been hampered by distrust.

One reason for this distrust is clear already: universities are foreign bodies within contemporary popular democracies operating within market economies. Most governments assume that public spending at universities can be justified to their electorate only in terms of the training of future employees or research with clear and immediate applications in industry, technology or health.[4] Two results derive from this assumption: (a) governmental support will be oriented to the fields and disciplines where public spending is comprehensible in these terms, and (b) universities will adjust to avoid losing public funding – and not only will they promote profitable disciplines, they will try to (re)model the remaining disciplines accordingly.

In his *The Tyranny of Metrics* (2018), Jerry Muller argues that distrust of politicians and society at large is the source of the so-called "accountability" culture. He is able to show that the metrics of accountability are particularly attractive in cultures marked by low social trust.[5]

The measurement of quantity in contemporary metrics covers many different variables that were previously evaluated separately in a complex judgement expressed in peer review. The simplicity of metrics provides the illusion of transparency and objectivity. The reason why governments and university managers like them so much is simple: metrics can serve well in justification since they seem to be intelligible to everybody. As a result, the general public can feel that it's in control of issues

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3   Tom Nichols, "How America Lost Faith in Expertise," Foreign Affairs, 2017, https://www.foreignaffairs.com/articles/united-states/2017-02-13/how-america-lost-faith-expertise/. For a full argument, see Thomas M. Nichols, *The Death of Expertise: The Campaign against Established Knowledge and Why It Matters* (New York, NY: Oxford University Press, 2019).

4   See Stefan Collini, *What Are Universities For?* (London: Penguin Books, 2012), 91.

5   Jerry Z. Muller, *The Tyranny of Metrics* (Princeton: University Press, 2018), chap. 4.

as complicated as research into astrophysics or ancient philology. The sociologist Kate Nash even believes that "auditing is introduced because professionals cannot be trusted to do their jobs well."[6]

The reaction of universities to metrics is summarised in the so-called "Campbell's Law" on the unintended impact of metrics: "*The more any quantitative social indicator is used for social decision-making, the more subject it will be to corruption pressures and the more apt it will be to distort and corrupt the social processes it is intended to monitor.*" For universities, pursuit of knowledge becomes a mere means of performing well in metrics-based rankings. For example, the only established results of the Czech Republic's Evaluation Methodology are: (i) a statistically reported increase of opportunistic behaviour by research institutions; (ii) large numbers of mediocre results weighing more than a (single) outstanding contribution; (iii) large and erratic changes in institutional funding mean that planning and development strategies are nearly impossible (it is telling that at this moment even higher education managers are complaining about the EM).[7]

The possible remedies for the situation described above are surely as complex as the troubles themselves. As a member of the academic community, I will start with universities themselves. They should attempt to regain some trust in the eyes of the public, but not by following the suggested path of supposedly "objective" metrics. Tom Nichols suggests that mechanisms specific to each profession and field of expertise might be the correct way to regain trust: "[E]xpert communities rely on peer-run institutions to maintain standards and to enhance social trust. Mechanisms like peer review, board certification, professional associations, and other organizations and professions help to protect quality and to assure society – that is, the expert's clients – that they're safe in accepting expert claims of competence."[8] Universities should be strict in adhering to these professional standards, in their internal control. I believe that

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6   Kate Nash, "Neo-Liberalisation, Universities and the Values of Bureaucracy," *The Sociological Review* 67, no. 1 (2019): 178–93, https://doi.org/10.1177/0038026118754780/.

7   These conclusions are from Barbara Good et al., "Counting Quality? The Czech Performance-Based Research Funding System," *Research Evaluation* 24, no. 2 (2015): 91–105, https://doi.org/10.1093/reseval/rvu035/. The Czech Republic has introduced a performance-based research funding system, commonly known as the Evaluation Methodology. The Evaluation Methodology was purely quantitative and focused solely on research outputs (publications, patents, prototypes, etc.

8   Nichols, *The Death of Expertise*, 35.

this can help universities not only in the eyes of the public, but it can also help them achieve better academic life *per se*.

The problems of universities are addressed in the following order: first, we set our discussion in the wider framework of democratic and liberal education. Alexander Goerlach places the university within the contemporary discussion of civil society and democracy. Rob Riemen goes even further and presents a link to the ancient tradition of paideia. Ivana Noble continues by showing that universities are not only places of learning, but that these institutions are capable of cultivating hope as well.

The next set of texts addresses particular challenges for universities in the 21st century. Saralyn McKinnon addresses the issue of quantification and metrics mentioned above. Jones Irwin offers a follow-up argument about the place of university in the contemporary socio-economic environment. Cláudio Carvalho further discusses the university's role in the public decision-making and counsel-giving process.

Finally, the core of the collection addresses particular aspects of the autopoietic aspect of the university. Jiří Přibáň discusses education in law as a particular example of this autopoietic function. Jimmy Lewis-Martin provides a metaphysical account of university as autonomously individuated systems. Jiří Šubrt then analyses university from the perspective of the system approach and functional analyses in contemporary sociology.

The final section is devoted to three important case studies from recent history via which one could demonstrate the theoretical issues discussed and opened in the previous sections. Peter Balasz discusses the mission and recent fate of the Central European University. Milada Polišenská introduces a historical account of the emergence of the first private HEIs in the Czech Republic after the fall of the iron curtain. Olga Lomová offers an intellectual history of Chinese studies in the post-communist world.

Role of Universities in Contemporary Society

The Common Good and the Ethic of Participation

Alexander Görlach

The crisis of democracy is a moral crisis because it was caused by a wounded sense of justice and fairness after the 2008 financial crisis. The crisis created its own narrative and thus attained a pervasive force that is capable of causing lasting damage to the liberal world order. The narrative goes like this: corrupt elites share society's goods among themselves. The order that these elites are defending thus serves only to reinforce the rule of the few over the many. Those in positions of authority in politics, business, and the media are working together and conspiring with each other. In this narrative, the elites' most potent weapon is global migration. Through migration, elites are trying to entangle long-established residents in a conflict with the newcomers over resource allocation. In the end, this struggle for resources will turn into a battle to bring about – or to prevent – the replacement of the established residents, a battle they will lose if they do not act immediately.

This narrative is so powerful because it employs the archetypes which René Girard discusses, just as it keeps the motif of loss of dignity, which Fukuyama sees as decisive, constantly simmering. Here a call for cooperation and collaboration is being issued that would fuse people who had formerly been strangers to each other into a community with a shared destiny. There is a new "us" that stands against "them." Thus this narrative joins the phalanx of the great religious and ideological narratives. "The outraged," "people whose dignity has been stolen," "the 99 percent" – whatever this group is called by outsiders, inwardly it is linked together by a common perception of reality and driven by the impetus to overthrow an order that, from their point of view, entails nothing good for them.

This is a populism that arrays the Somewheres for battle against the Anywheres. It is the manifestation of a protest that demands a new form of participation. Instead of being overlooked, the people want to stand at the centre of the order that is built around them. The idea of the liberal world order was nothing less than to build and maintain an economy oriented around human beings and a truly humane society. The constitutions enshrine an inborn right to participation – a participation that in turn finds expression in civil and social rights.

It is disturbing that when the protest presented itself purely as a protest against the economic system, it quickly receded into oblivion: just like the AfD in Germany, "Occupy" and "We are the 99%" were only able to ignite a flash in the pan. With only their – justified – critique of the economic system driving them, they soon lost steam. It was only when the perceived loss of dignity and the sense of having been left behind were linked that the spark of anger was able to turn into the flame of outrage through the use of the refugees and "powerful images."

The narrative at the base of this protest breaks with a central and essential point of liberal society. Societies with more equitable access and a higher degree of fairness have developed a sense for the *bonum commune* (the common good). The question of what determines the common welfare can be answered only if all concerned have enough empathy to emotionally understand their fellow human beings' realms of experience. It has already been mentioned that empathy is essential for the form of democracy we practice today. Anyone who thinks that a renovation of democracy could work without a surplus of empathy is mistaken. Not only is there no "illiberal democracy," there can also never be a democracy without empathy.

When we say that democratic representation and participation will be modified in the future to take into account new technological possibilities, it is worth looking at attempts that have already envisioned this. The concept of deliberative democracy, the "well-advised democracy" formulated by Stanford professor James Fishkin, works as follows: imagine a city arguing about the optimal water supply or a new large-scale project. If there is a body whose composition is precisely determined by algorithm to represent the interests of all groups in the city, Fishkin's research suggests that participants in the debate will be inclined to listen to each other's opinions and to reach out to each other in making compromises. The inference is that a common good can be discussed and defined if all those who belong to the community are allowed to bring the specific characteristics that constitute their identity (men, women, migrants,

religious minorities, LGBT groups) to the discussion and be treated as equals in value and dignity. The novelty of Fishkin's concept lies in using algorithms to determine who belongs to these groups and what their numbers should be in a city meeting specially arranged for a particular topic. It can be argued that this would have been possible long before now with the aid of census data. The concept of deliberative democracy, however, recognizes and understands that political communication and issues-based organization today occurs through other mechanisms, and is thus able to transcend what was formerly possible. In Germany, the turbulent process surrounding the launch of the "Stuttgart 21" railway project would have gone differently with the methods of deliberative democracy. For all its technological innovation, the core of this updated democracy is still empathy: the willingness to talk to and accommodate each other. It is therefore questionable whether, under the polarized circumstances in which many democratic societies find themselves today, the deliberative model could bring about change.

The *bonum commune* can be jointly envisioned by people who consider themselves equal in value and dignity. Otherwise, it will be a policy imposed from above, driven by self-interest, or determined by the stronger party on the basis of its dominance. In the Rhineland, a saying goes, "Sometimes you have to indulge people's victories." People can display this intellectual and material generosity only if they feel that things are reasonably fair and just, and that prejudice against or preferential treatment of particular groups stays within a range that is constantly placed under inspection by society, and when necessary brought up for discussion through elections and by the active participants in civil society. As the context of the American dream shows, societies, in accordance with their ethos, are willing to accept certain inequalities if they appear justified within a framework that is perceived to be superior. The same is true of a primacy of exaggerated equality. In the societies of Europe, there are different types of consensus about the social contract. The welfare state, which is the predominant concept, varies in its manifestations; underlying the concept in these societies is an agreement in each one about the common good.

Just like the American idea of the land of unlimited opportunities, the narrative of the western European welfare state, according to which stronger members should shoulder more of the burden than weaker ones, was severely weakened by the financial crisis. Thus, in surveys, a majority of people in Italy and France endorsed a travel ban for foreigners from Muslim-majority countries – closed borders rather than freedom of

movement. The attitude toward migration is a gauge of "what victories one is ready to indulge." It is also the focal point where rejection of the old, liberal order is manifested. In societies that are economically flourishing, the *bonum commune* can only be achieved as a goal and as an obligation through migration. This admittedly expands the "circle of relevance," the circle of those to whom this *bonum* also applies. Origin, ethnicity, and religion do not play any role in it, or at least they shouldn't.

Outside the fantasies of impending subjugation to outsiders, popular with fanatic groups and individuals, economic aspects are at the forefront of present-day migration flows. The success of this model of migration, which is based on interaction due to economic needs and technological innovation, is particularly evident in the European Union, a gigantic common market that allows its participants to work anywhere. Ideas and goods move freely within it. Here, economic and human factors are so interconnected that for a large number of market participants, opportunities are multiplied. What has been achieved through it in Europe is the overcoming of tribal and confessional thinking. If a generation ago an Italian or Spaniard was still regarded as a foreigner in Germany, the idea now largely prevails that every EU citizen working and paying taxes in Germany "belongs," is a part of the community. This is a sensational success, as a glimpse at European history with its multiplicity of territorial and religious wars attests. The last seventy years have been the longest period of peace in European history, and it has made possible an immense improvement in the standard of living of the vast majority of people. The same is true of East Asia – Taiwan, South Korea, and Japan – which have followed the same model of cooperation through integration, are today economically successful democracies. That said, the new populists of ingroups and outgroups and the search for scapegoats in economically difficult times not only calls this success into question but also endangers it and puts it at risk. The *bonum commune* is changing from the common good to the good of particular groups, that is, if in doubt, the good of the majority or the stronger and dominant group.

If migration is halted, there are consequences for the vitality and innovation of societies. Consequently, among populists the demand to stop migration is accompanied by a desire to restrict the movement of goods across the board or to a large extent. The trade wars currently flaring up on every side clearly attest this. In particular, the election of Donald Trump as president of the United States of America has accelerated this process. Advocates of populism like Trump, however, primarily

find willing listeners in many of their voters because they address existing injustices and channel them: against the media at home, against migrants from Latin America, against Muslims all over the world. Images of the enemy are required to establish and sustain such an isolationist worldview.

In this respect, the retribalization of societies is the product of people's perceived loss of economic dignity. Mobility and purchasing power are limited, the young today are worse off than their parents, promises of advancement now seem empty and unbelievable. The resulting exclusion of people from society leads to anger and resentment. Conversely, where people are able to live their lives in dignity, the common good, the *bonum commune* plays an important role. Part of the common good is that all members of society share in the benefits of prosperity. The transmitter for the balancing of interests and the medium of any public debate is empathy, which allows others to appear in their own light and does not seek to belittle or degrade them.

Empathy, properly understood, means humanity, human compassion. Creating a worldview around a humanism such as this is a characteristic of European intellectual and cultural history. Erasmus of Rotterdam was already dreaming of a united Europe built on the foundation of a Christian humanism. The Reformation and the ensuing wars of religion, the epitome of "us against them," were ultimately the graveyard of this dream. The same thing occurred during the era of the World Wars and the Holocaust. Exclusionary nationalism and an imperialism expanding beyond Europe's borders led to a new and harsher "us versus them." Those who read Stefan Zweig's *The World of Yesterday* can return with the author to the time before this calamity when, as Zweig writes, no one even remotely imagined that in a world where prosperity and security were gradually being established (Zweig describes how people had started paying into insurance and pension funds), such a devastating event as the First World War could ever take place. Are we now entering a new era of intensified conflict according to the paradigm of "us against them" due to economic inequality and ecological imbalance?

Then as now, affronts to humanity are the cause of a rebellion that looks for a scapegoat among fellow human beings. Alvin Toffler described these affronts in his book *Future Shock*, published half a century ago. His thesis is that there are moments in history when progress is so rapid that even elites can no longer understand it. When that happens, a feeling of grievance and powerlessness arises, even among elites. If we think back to the time of the euro crisis, when legislators had to decide at lightning

speed on measures to stabilize or even save the common currency, statements come to mind from various members of parliament who reported feeling insufficiently informed about what the potential outcomes of the severe crisis were. The "loss of dignity" Fukuyama speaks of is therefore not a singular, dramatic act, but rather a process in which a society's axes of authority shift. The gatekeepers – those who hold in their hands the keys to understanding reality – are unsettled by the innovations and will ultimately be ousted from power if they, as shapers of the transformation, do not decisively counteract them.

Europe in the modern era has experienced three of these elementary and existential affronts to humanity. They are associated with the names Copernicus, Darwin, and Freud: Copernicus banished man from the centre of the universe, while Darwin pulled the throne out from under the self-styled pinnacle of creation. Finally, Freud stated that man is not even the master of his own house, but, rather, is ruled by the forces of the subconscious and the indignities that are the legacy of his upbringing. Will the fourth affront be that in the course of world history, human beings have ultimately become superfluous, a means to an end in a self-perpetuating economy? With storm warnings sounding all over the Western world, this assumption is, at the very least, not pulled completely out of thin air.

The historical depth from which times of upheaval confront us shows that a new law here and a few cosmetic changes there will not be enough. Harari correctly points to narratives as drivers of collaboration. But collaboration always needs a "to what purpose," a *bonum commune* that it aims for. In times of uncertainty, this goal is undefined, and if something ceased being a goal yesterday, it will not sustain anything tomorrow. We are living in such a time of upheaval; therefore, the sole deciding factor is whether or not we will be able to define a new goal, a *bonum commune*, provide it with a narrative, and in this way equip it with powerful images. This is our only chance.

Only where human beings are at the centre is there any sense in thinking and talking about the *bonum commune*. The fact that the number of people who have been economically outpaced is growing in large parts of the democratic world shows that in the economy in which we currently operate, human beings are not the primary concern. This observation is not accompanied by a general demonization of all things digital or the new possibilities for economic activity. As with all other previous leaps forward in modernization, the task and objective are to make the benefits of innovation productive for the greatest possible number of people,

and to avoid negative side effects at the same time. This will never be 100 percent successful. But before one can even think about success, the problem must be formulated and become a part of the general consciousness. We are currently at this point. The harms that can result from the data collection practices of major Internet corporations are only now being identified. The scandal surrounding Cambridge Analytica is a sad sign of this development. The company boasted of having changed the outcome of the US presidential election in Donald Trump's favour by means of Russian-bought ads on the social-media giant Facebook. The criminal energy (which has always existed) on the one side finds its counterpart in Facebook's attitude on the other. It took the company a very, very long time to recognize what it was doing wrong – if it ever recognized it at all.

When human beings, as human beings, are the focus, narratives of cooperation will be able to flourish and thrive again. But when dignity has been lost, human beings perceive themselves as abandoned; they are transported back to the archaic struggle of all against all, to a time when no one could trust in anything except one's own abilities. This too is corroborated by the rampant scepticism and loss of confidence in established institutions, such as the media, political parties, and churches. The narrative of the American dream is as dead as the myth of an all-encompassing social safety net that the European welfare state once promised. The economic reasons for this are not found solely in the financial crisis of 2008, but the moral reasons are.

Because since that event, the chasm between those who have much (and are constantly gaining more) and those who have little (and from whom even that meagre amount is being taken) cannot be bridged any longer. Societies with their various groups and factions have to reunite, but so too do the many isolated individuals who are compelled in disturbing fashion to join in citing Margaret Thatcher's dictum that there is no such thing as society. The Iron Lady, midwife of neoliberalism, may have been expressing her wishes in verbal form in this case. Half a century later, however, the ideology she helped to expand has begun to erode the social balance and any consciousness of responsibilities that extend beyond a quarterly bonus and the rapid closing of a business transaction. The question facing all societies of the democratic world today is one that once appeared as the first question in Martin Ramm's little catechism for Catholics: "Why are we on earth?" The question itself, and the answers that emerge, from it must be so real and so robust that they can form and sustain the narrative during the new era.

Some Reflections on Higher Education as the Origin of Higher Stupidity

Rob Riemen

Confucius was once asked where he would begin when he had a country to rule. "I would improve my language skills," the master answered. His audience was amazed. "That has nothing to do with our question," they said, "what is the point of improving the use of language?" The master replied: "If the language is wrong, what is said is not what is meant; if what is said is not what is meant, the works do not come about; if the works do not materialize, then morality and art do not flourish; if morality and art do not prosper, the justice system does not apply; if the judiciary fails, the nation does not know where to go. So do not tolerate arbitrariness in the words. That's what it all comes down to."

University, Université, Universität is a "proud word" as George Steiner put it, since its basic meaning is "the totality," namely the totality of knowledge.[1] Yet, it is not totality in terms of quantity, but it is totality of quality. The totality of knowledge – of *understanding* – the totality of what we have to know for our *pursuit of truth* within our quest for an answer to the two most fundamental questions we have to ask ourselves according to Socrates to be able to deal with our lives: the first, what is the right way to live? And the second one, what is a good society?

To find an answer to these questions, we have to know the truth, we have to have an understanding about the world (the *kosmos* as Greeks would call it), about us human beings and our human society. For this reason, an education in the *universitas* was an education in:

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1   George Steiner, *Universitas?*, Nexus Bibliotheek 9 (Tilburg: Nexus Institute, 2013).

1. astronomy and mathematics (to know the truth about the cosmos);
2. theology, philosophy and the humanities (to know the truth about the human being and the meaning of life);
3. law (to know the truth about a good society);
4. medicine (to know the truth about a healthy body).

The heart of the education in the *universitas* is that phrase of Cicero in his Tusculan Disputation 2.13: *cultura animi philosophia est – the cultivation of the human soul is the quest for wisdom*. That is what we may call *the indispensable education*, since without it we will never be able to find an answer to the two fundamental moral *questions which are the pillar of any civilization*.

A quest for truth starts according to Socrates first and for all with *self-examination*. Only through asking questions and having a free mind, through self-criticism and learning how to make distinctions, will we be able to know who we are, can we know the state of our souls, and the ethos we are in need of to be a *moral* being.

Secondly we have to have a love for *wisdom*, as only through wisdom can we find meaning in a life and world which is so often confronting us with what is meaningless or just bad. We need wisdom to try to find and make our own these spiritual values which are beyond definitions and theories as they are not empirical and material: justice, friendship, love, freedom, truth, goodness, inner beauty, compassion.

Cultura animi – the care for our soul also requires that we are at home in the world of the Muses, the arts. Our deepest emotions, an answer to our most private questions, our inner life, is beyond expression, as we can't find words for it. But in poetry, in literature, in music or a painting we do find that language which makes it suddenly possible for us to communicate again, and through the gift of imagination that the arts provide it becomes easier to understand what is in the heart of the people around us.

Finally, we have to have the *classics* of the humanities and the arts as they question us, these works read us, they too help us to take away our self-deception and be confronted by both the truth of ourselves but also by insights, understanding of who we are and the world we live in.

This is education at the centre of the *universitas* in the *paideia* (as Socrates called it), or *Bildung* (as Goethe would call it), and what now in English is called *liberal education,* as it is this education that helps us to become free, to elevate ourselves beyond our fears, instincts and worst desires, to liberate ourselves from the stupid, pathetic, frustrated sides of ourselves so we can live in truth, to create beauty, to do justice and have

compassion – in short: to live our lives in dignity and to have a society where justice and truth are at home.

Now, if you look at all the universities on the so-called Shanghai ranking list (Harvard and then a long list of many more well-known institutions of "higher learning"), in all objectivity we can claim that none of these institutions are doing justice to the meaning of that proud word *universitas*. Why is that?

The answer can be found in a quite famous lecture delivered a while ago. And I will deliberately keep the name of the lecturer unknown till the end of my summary. The lecturer presented the following analysis:

Being a pretty old fashioned European, but with a keen eye for modern reality, he accepts as a fact that "university life is becoming Americanized." In practice this means that the success of a teacher is no longer based on his or her qualities but quantity: the number of students! And this has become a fact because for the board of a university it is much easier to measure the number of students which a teacher attracts (and then celebrate the arrival of even more students) than to measure the intellectual qualities of a scholar.

A consequence of this practice, the lecturer continues, is that "mediocrities occupy leading positions in the universities," *as* in general those who know best how to please a crowd are often not those with the greatest intellectual gifts. And this means that if someone with intellectual gifts wants to make an academic career, they have to be aware of the fact of being confronted year after year, to seeing one mediocrity after another being promoted, and then try not to become embittered.

The second main argument of our lecturer is that: *due to a growing process of intellectualization and rationalization of knowledge science has changed*. Firstly, science has become a process of more and more *specialization*. Secondly, due to rationalization science is better than ever equipped to know the *facts,* but it has nothing to say about *meaning,* as that is beyond the scope of science. The implication is that science, as it is practiced at universities, has no longer anything to say about the two fundamental moral questions which are at the centre of the *universitas*. However, what science and its handmaiden technology can and will do is that "through its capacities to control everything by means of calculation" it can free the world from the mysterious and unpredictable forces. In short, science and technology can fix everything, *but it cannot provide any meaning*.

This lecture is a brilliant analysis of modern universities: the boards are only interested in the number of students and with the endowment. Most professors are mediocre; the best of them are specialists: the focus

is on what is *useful* and what we can use to *fix* things, yet at the same time it doesn't provide any meaning to our lives and the world we live in! The "higher education" which is provided is completely disconnected from the idea of the *universitas.*

The lecture I have summarized is: "*Science as a Vocation*" delivered by Max Weber in 1917.[2]

Here we can trace the roots of our educational and intellectual predicament back more than a hundred years. Quantity and mediocrity replaces quality; knowledge of facts and data replaces a sense of value and meaning; the polyhistor or *uomo universalis* is replaced by the specialist. It is because of this that around the same time, in 1921, the poet T.S. Eliot, asked the questions: *Where is the wisdom we have lost in knowledge? Where is the knowledge we have lost in information?*

And it is because of this that two decades later, in his book *The Origin and Goal of History,* Karl Jaspers, who himself was a philosopher, historian, psychologist, public intellectual a true polyhistor observed that in the Age of Technology:

> The spirit itself has been sucked into the technological process, which even subordinates the sciences to itself-and this with an intensity that grows from generation to generation. This explains the astonishing stupidity of so many scientists outside their own special field; it explains the intellectual helplessness of so many technicians outside the tasks which, though they are for them the ultimate ones, are in themselves not so at all; it explains the secret lack of happiness in this world that is becoming ever more in-human.[3]

And we may add that it explains how our so-called "higher education" has become the root cause of our "Higher Stupidity," a brilliant term coined by Robert Musil with which he indicated an intelligence which is deprived of any moral values and wisdom.

Max Weber was not the only prophet of our time. Half a century before there was Friedrich Nietzsche, who already realized in 1872, at the age of only 27, that a gigantic paradigm shift was on its way which would fundamentally change the Western world. He had just been appointed

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2   See Max Weber, *Gesammelte Aufsätze Zur Wissenschaftslehre*, 7th ed. (Tübingen: Mohr Siebeck, 1988), 524–55.

3   Karl Jaspers, *The Origin and Goal of History*, Routledge Revivals (London: Routledge, 2010), 97.

professor of philology at the University of Basel when the Academic Club invited him to give some public lectures on the future of education.

The core of the argument in his lectures is that while education is being extended and expanded for political and economic reasons, its cultural content will be eroded. Education, Nietzsche argues, will be subordinate to utilitarianism, or more precisely, to salary. Future students will basically only study "to stay well-informed" and to keep "up-to-date," to learn about the easiest ways of earning money. In general, education will be set the task by government and society of shaping "standard" people, people who will be as easy to deploy and as interchangeable, if possible as coin currency. The prevailing morality, he went on, will abhor education that isolates, that takes a lot of time, and that pursues goals transcending money and trade. Modern students want the opposite: to acquire a quick education so they can soon start earning money, but at the same time they demand an education thorough enough to enable them to make a lot of money. In modern education, not a penny more will be paid for culture than will benefit the economy, but this minimum dose of culture is compulsory. The time of schools of civilization will be over as they will be replaced by an education with the sole objective of serving the interests of business, the economy, management and bureaucracy, which take precedence above all, as predicted by Nietzsche in 1872.

And what is the current situation? According to the latest social survey, in the USA – the country with the largest number of the universities on that Shanghai Ranking (the so called "best" and "most expensive" universities) – 84% of students mention as their goal for education: "becoming very well-off financially." This is indeed what the whole society has taught them, and the institutions of higher education are more than happy to accommodate them to pursue this goal (for which, of course, they have to pay a lot of money).

We should not be surprised that on the list of people responsible for the devastating financial crisis in 2008, all of them were educated at America's top-universities; the law and business schools in particular. But we should also not be surprised by the broader crisis in our democracies today and the new rise of fascism all over the West.[4]

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4   See Rob Riemen, *To Fight against This Age: On Fascism and Humanism* (New York and London: W. W. Norton & Company, 2018).

History tells us the following: just one week after his arrival in New York on 21 February 1938, on the *Queen Mary,* Thomas Mann travelled by train to Chicago to deliver his 1st March lecture *The Coming Victory of Democracy* to an audience of more than four thousand people. He told his American audience that ever since the early 1920s, in his hometown of Munich he had witnessed the rise of Hitler, seeing at first hand a fascist movement coming to power in Europe. Based on this experience, he wanted to warn Americans and to remind them of what Walt Whitman had taught him since he first started to read the poet's work in 1922.

According to its literal definition, democracy is a matter of institutions, of the freedom to vote, freedom of expression, the will of the people. But that is not the essence of democracy. Its essence is a spiritual and moral ideal. True democracy is a form of government and of society that is inspired more than anything else by the sense and consciousness of the dignity of humankind. True democracy demands a social conscience; it needs to be a social democracy if it is to fight against the excesses of capitalism and of amoral liberalism, against social inequality and injustice. Such a democracy will cultivate the greatness of man as it finds its expression in art and science, in a passion for truth, the creation of beauty and the idea of justice. Where the spirit of democracy is absent, where it exists in name only, the same will eventually happen as had happened in fascist Europe: it will become a mass democracy.

Mann had watched the spirit of democracy vanish in a mass society in which stupidity, kitsch, vulgarity and the basest of human instincts dominated, where demagogues were welcomed, along with their lies and their politics of resentment. He had watched the incitement of anger and fear, of xenophobia, witnessed a need for scapegoats and a hatred of the life of the mind. In a mass society democracy dies, while fascism, the anti-democratic spirit, takes over. To prevent fascism from coming to America, people needed to realize that: "the purpose of true democracy is to elevate humankind, to teach it to think, to set if free – its aim, in a word, is education."[5] An education presumably in the *universitas*, in nobility of spirit.

The core of the problem we are confronted with, the core of why Higher Education is the root of our Higher Stupidity, can be summarized in just one word: corruption. A massive, intellectual and moral

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5   Thomas Mann, *The Coming Victory of Democracy* (London: Secker & Warburg, 1938).

corruption is what drives contemporary universities. So what is to be done? Well the good news is, history can tell us that too.

Ages before the English historian Gibbon, Machiavelli understood that the end of the Roman Empire and its civilization was not due to the invasion of the barbarians. The true barbarians were inside Rome, a world of power that had become completely corrupted. Contrasting his era with the history of the Roman Empire, Machiavelli discovered the following and wrote it in *The Prince* – corruption is like tuberculosis: "at the beginning, such an illness is easy to cure but difficult to diagnose; but as time passes, not having been recognized or treated at the outset, it becomes easy to diagnose but difficult to cure."[6]

He also observes that one of the roots of corruption is a sustaining inequality and having all the power concentrated in small elites. People can be easily corrupted due to their desire to fulfil their own interests and to make life easy for themselves. The cultivation of virtues is always more difficult for the world of power as it is, but with the consequence that when moral bonds disappear, social cohesion will disappear as well, and resentment and violence follow always. For Machiavelli it is also clear that any form of corruption is a threat to individual integrity and self-knowledge, as it creates a form of false consciousness. Nobody will declare him- or herself corrupt; everybody will have their explanation and justification for what in essence is morally wrong. The best excuse is always: it is legal. This is why Machiavelli also warns that when corruption develops and invades the culture of a society, laws will not be of any help to stop it. The laws too will be affected, and new laws will not be of any help.

Interestingly, around one hundred and fifty years later the Dutch philosopher Spinoza came to the same conclusion in his book about the nature of a good state: "He who seeks to regulate everything by law, is more likely to arouse vices than to reform them."[7]

Now, only performing an analysis of where corruption comes from and what it does to a society was obviously not enough for Machiavelli: he wanted to know how to build a better world, which for him started with how to stop corruption. And he comes up with an intriguing answer: given the fact that all man-made things, empires and civilizations

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6   Niccolò Machiavelli, *The Prince*, Oxford World's Classics (Oxford University Press) (Oxford: University Press, 2005), 12.

7   Benedictus de Spinoza, *Theological-Political Treatise*, Cambridge Texts in the History of Philosophy (Cambridge: University Press, 2007), para. 20.10.

included, have a set limit for their duration, the only way to make them endure is if their institutions can renew themselves. The best way to save and revive an aging institution and to prevent its decay is to call it back to its first principles, as there must have been in them a certain excellence by virtue of which they once gained their first reputation and growth.[8]

That principle of education is known: it is called *universitas*. We know what that is. The only thing we have to do is to have the courage to revive it and make it again the heart and soul of our higher education, and this for the sake of having a world where liberal democracies thrive and people can live their lives in dignity.

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8   Niccolò Machiavelli, *Discourses on Livy*, Oxford World's Classics (Oxford University Press) (Oxford: University Press, 2008), chap. 3.1.

Universities as Places that Cultivate Hope: Relationship between Expertise, Education towards Human Maturity and Societal Responsibility

Ivana Noble

Most commonly the origin of universities is traced to the European Middle Ages, although some would argue that they originated in Byzantium or in the Muslim world.[1] In any case, through a significant part of their history universities very heavily relied on a Christian culture, including its systems of virtues and vices, its ideals of knowledge and wisdom, its desires to cultivate a holistic human person and society. Their subsequent development during the Early Modern Age gave them a sense of autonomy both from rulers and religious bodies, although they were still dependent on the support and protection of both.

The fundamental idea is embodied in the word "university" – the "uni" encapsulates the desire for a general education, a holistic overview, interdisciplinary communication and cooperation across the disciplines. In what follows I take John Henry Newman and his seminal work *The Idea of a University*[2] as a conversation partner, as it explores how

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1   See, for example, Laura Tucker, "10 of the Oldest Universities in the World," Top Universities, October 21, 2022, https://www.topuniversities.com/blog/10-oldest-universities-world/.

2   *The Idea of a University* is based on a series of lectures Newman delivered in Dublin in the 1850s. It is divided into two books. The first book, originally entitled *Discourses on the Scope and Nature of University Education: Addressed to the Catholics of Dublin*, published in 1852, addresses the following themes that Newman in his time saw as vital for university life: (1) the assumed nature of knowledge; (2) the relation of higher education to religious belief; and (3) a defence of a liberal approach to education. The second book treated these themes in a new depth. Newman completed it when acting as the inaugural rector of the Catholic University of Ireland (today University College, Dublin). Entitled *Lectures and Essays on University Subjects* it was published in 1859. Both books were first published in one volume under the current title, *The Idea of a University*, in 1873. Newman, however, continued to edit this work till his death in 1890. See Michael Lanford, "The Idea of a University," The Literary Encyclopedia, April 2,

such universality can be achieved, what notion of knowledge it needs to draw on and how personal formation and societal formation need to be included in a healthy university culture. Newman's approach, in which universities are seen as places cultivating hope, helps in moving towards the next step, in which challenges to university autonomy and mission in the new millennium are explored, before asking how hope is to be distinguished from its caricature. This is done by reflecting on the current geopolitical situation and the role of universities in it, and then by analysing complex relationships and differences between hopes, utopias and ideologies. In the concluding remarks I sketch how the relationship between expertise and education towards human maturity and societal responsibility can be maintained, together with a focus on the common good, whilst living with experiences of harm and trauma, risk and danger.

The Type of Place Universities Should Aspire to Be

In his famous lectures contained in the book *The Idea of a University*, John Henry Newman stated that the primary role of a university is to teach people how to think and to properly grasp reality, how to make a habit of seeking for illumination and loving the truth.

According to Newman, the other roles such as the development of scientific knowledge, the transference of skills to enable people to succeed in the labour market, the formation of ideas to help ground and develop their political and religious lives, all derived from the university's primary role and were dependent on it. During a time when education systems face enormous pressure to demonstrate the immediate "usefulness" of knowledge and its quantifiable nature, and to provide specialization as quickly and cheaply as possible – in short, various methods of reductionism – then universities should represent a centuries-old tried and tested alternative: free and critical thought, and profound knowledge with wide-ranging scope.

Newman presents a series of characteristics of the place universities should aspire to be which remain worthy of attention today. They will help us as we seek to emerge from the divisions in our societies experienced

due to the Covid-19 crisis, overshadowed now by the humanitarian crisis caused by the war in Ukraine and the rising totalitarian practices in Russia. Universities can respond to these crises adequately if they draw on the very foundations of their mission. Newman speaks about the role of universities as places cultivating hope. Their notion of knowledge, according to him, is not reduced to a commodity, but is seen "as a light in the mind that gradually informs and transforms the attitudes and aspirations of the whole person."[3] Moreover, Newman is aware that no person lives in isolation from others. We are relational beings, and as such parts of a society. He emphasizes the need for health "at the level of mind as we have the word 'health' at the level of body and 'virtue' at the level of morality."[4] He speaks here about the "enlargement of mind, illumination, intellectual culture," a habit of mind that enables the subject of it "to reach out towards truth, and to grasp it." [5] Such a process has a necessary social impact.

For Newman "talent, ability, genius" are not ends in themselves. They "belong distinctly to the raw material, which is the subject-matter, not to that excellence which is the result of exercise and training." Turning to "judgment, taste, and skill," he says that "even these belong, for the most part, to powers or habits bearing upon practice or upon art, and not to any perfect condition of the intellect, considered in itself." [6] University education needs to provide a setting as well as particular ways for these gifts to be directed towards "wisdom," which "has a direct relation to conduct, and to human life." [7]

Universities as homes of knowledge and science need to teach both how to arrive at and how to express "intellectual ideas" and how to cultivate a "quality of the intellect," so that the students as well as teachers of a university would always see themselves as pilgrims on that journey on which they strive to make desire for illumination and love for truth their

3   Noel Dermot O'Donoghue, "Newman's 'Idea' and the Irish Reality," *The Furrow* 42, no. 7/8 (1991): 438.

4   Ibid.

5   See Newman, *The Idea of a University,* Discourse VI, 1, in O'Donoghue, "Newman's 'Idea' and the Irish Reality," 438.

6   Ibid.

7   Ibid. It is interesting that Newman in his time and position did not ascribe this role of cultivating human conduct only to the church. He was aware that it was necessary for universities to participate in such a mission, as he claimed that it was "possible to belong to the soul of the Church without belonging to the body." See John Henry Newman, *Letters and Diaries of John Henry Newman* (Oxford: Clarendon Press, 1995), xxv, 71.

habit.[8] For Newman "the cultivation of the intellect is an end distinct and sufficient in itself," because it is its "enlargement or illumination," "mental breadth, or power, or light."[9] He goes on to say: "A Hospital heals a broken limb or cures a fever: what does an Institution effect, which professes the health, not of the body, not of the soul, but of the intellect? What is this good, which in former times, as well as our own, has been found worth the notice?"[10]

Newman's provoking and inspiring reflection on the nature of knowledge that universities should stand for is helpful for our further reflection on hope, that, like knowledge, needs to be both personal and collective at the same time.[11]

Challenges to University Autonomy and Mission in the New Millennium

Such understanding of hope has an impact on how we are to understand the autonomy of universities on the one hand, and their formative role and engagement in societies on the other. We derive the freedom of research and the self-governance of universities partly from their medieval foundations and partly from Enlightenment ideals. Both form what

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8   Newman, *The Idea of a University*, Discourse VI, 1.

9   Newman, *The Idea of a University*, Discourse VI, 2. Newman emphasized the vital role of conscience and its cultivation. See, for example, John Henry Newman, *Apologia pro vita sua* (London: Dent & sons, 1955), 192, 210.

10 Newman, *The Idea of a University*, Discourse VI, 2. In his work *An Essay in Aid of a Grammar of Assent*, Newman spoke of an "illative sense" as something that opened a human person upwards while helping to build grounds for responsible living. It opened up an assent in which accumulated probabilities of what is true and good were seen as cumulative authorities granting people certitude on which it was possible to act, not without a possibility of error, but with integrity and wisdom. See John Henry Newman, *An Essay in Aid of a Grammar of Assent* (Oxford: Clarendon Press, 1985), 408.

11 Michael Lanford appreciates that Newman's depiction of a university culture has a transformative potential that has had an impact on educational administrators, policymakers, and scholars, despite the increased neoliberalism and corporatization in higher education. See Michael Lanford, "The Idea of a University," The Literary Encyclopedia, April 2, 2019, https://www.litencyc.com/. For the appreciation of the holistic nature of education and its relevance for contemporary university formation he refers, for example, to Eddie Blass, "What's in a Name? A Comparative Study of the Traditional Public University and the Corporate University," *Human Resource Development International* 4, no.2 (2001): 153–172; Jackie Dunne, "Newman Now: Re-examining the Concepts of 'Philosophical' and 'Liberal' in 'The Idea of a University,'" *British Journal of Educational Studies* 54, no. 4 (2006): 412-428; Alister MacIntyre, "The Very Idea of a University: Aristotle, Newman, and Us," *British Journal of Educational Studies* 57, no. 4 (2009): 347-362.

we understand as the autonomy and mission of universities. Since then universities in Europe have undergone the torment of two world wars, the impact of Nazism and Communism, over three decades of new possibilities since the Iron Curtain collapsed, but also, especially towards the end of that period, the rise of populism, nationalism and new forms of putting divisions and animosities back in place.

Even before Covid-19 and the war in Ukraine, European countries experienced a series of crises. The financial crisis that began in 2008 shook long-term certainties at a very practical and tangible level. A number of faculties, colleges and other university institutions closed down during or shortly after that period, including very prestigious ones, such as Heythrop College in the University of London.[12] Students, graduates, and university staff experienced growing insecurity with regard to the numbers of new students, employability for young people, access to housing, getting and paying mortgages, employment stability and security of pensions and savings. What Zygmunt Bauman described as characteristics of the "liquid" society[13] became tangible in everyday experience. University autonomy needed, then, to find new expressions that would bring hope to situations where people no longer have fixed traditions and values, whether religious or secular, as was the case in early modernity.

As I see it, universities often went with the wave of society, and the more broadly experienced loss of fixed economic certainties since 2008 that has impacted on the possibilities of longer-term projects, both at the work level and at the personal level, became a long-term problem even in their settings. Internationalisation was supported, but especially in humanities the situation of the young gifted local academics was often not a sufficiently high priority. I have often recalled Lyotard's book *The Postmodern Condition*, in which he highlights ideologies which continue to dominate even though no-one believes in them any longer, and how to a great extent knowledge is "regulated" by those who have access to

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12   The College's roots go back to 1614, when it was founded by the English Province of the Society of Jesus operating in exile in Belgium. In 1926 the college moved to Heythrop Hall in Oxfordshire. In 1970 the college moved to London and a year later was incorporated into the University of London. The closure was announced in 2015 and completed in 2019, despite many national and international interventions and offers of help. For the petitions list, see "Petition: Stop the Closure of Heythrop College," https://netivist.org/campaign/stop-the-closure-of-heythrop-college/.

13   For the concept of "liquid society," see Zygmunt Bauman, *Liquid Times: Living in an Age of Uncertainty* (Cambridge: Polity Press, 2007).

finance.[14] I think that these two supranational issues greatly affected the autonomy, independence and legal status of universities, but at the same time they challenged us to defend these values.

Now universities need to find their voice and adequate practices when facing political crises. In 2014 a new wave of political instability arrived through the crisis over Ukraine. The annexation of Crimea by the Russian Federation, war in Donbass, and the rise of Putin's power woke us up from the dream of peaceful coexistence in post-totalitarian Europe. Indeed, the very notion of post-totalitarianism began to be further questioned. Many Ukrainians already then felt betrayed by those Europeans for whom not wanting to interfere could be translated as unwillingness to help. Universities in the neighbouring countries responded by creating new places for Ukrainian students and researchers who could not finish their education at home, as well as accepting wounded people into their hospitals.

In the same year the Islamic State declared the establishment of a caliphate and claimed responsibility for a number of terrorist attacks in Europe. While terrorism is not a new phenomenon, either in the Middle East or in Europe, the intensity of attacks experienced in Europe and the U.S. brought panic and a need for new measures to the public sphere. Universities needed to participate in taking safety measures, in investigating whether and if so where and how their structures were open to propagating such actions or gaining young people for extremist groups. Freedom of speech as an abstract absolute needed to be challenged and re-defined in the new situation, especially in relation to new media, so that universities would not allow the spread of that which could be linked to terrorist propaganda and remain safe places for students. Their autonomy could not be expressed independently of their safety and the safety of the broader society.

Only a couple of years later the wars in Syria, Afghanistan and Iraq confronted Europe with its inability to find a common solution to the rapid rise of refugees coming from these countries. Different groups of university students organised anti-war protests and educational activities aimed at combatting conspiracy theories in the broader society by presenting factual information. They also created "hate-free zones," where cultural and religious differences did not serve as a justification

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14 See Jean-François Lyotard, *The Postmodern Condition. A Report on Knowledge* (Manchester: MUP, 1994), 3.

for exclusion.[15] In Central Europe, the same countries that were willing to accept Ukrainians had only recently closed their doors, refusing European Union quotas and speaking about defending their autonomy, using the rhetoric of "Christian values," whether in predominantly religious countries (like Poland or Slovakia) or secular ones (like the Czech Republic or Hungary).[16]

There was a change in the political climate and in governments. Central European universities were confronted with rising nationalism in their own as well as in the surrounding countries, and with the dilemma of the extent to which they would go along with the new ideology and restrictive practices it brought. In our region this was most visible in Hungary, where Viktor Orbán imposed serious restrictions on university autonomy and academic freedoms, with the argument that he was purifying them of "internationalist" or "globalist" tendencies.[17]

As Brexit has shown, nationalism drawing on populist ideologies and practices is not restricted to post-Communist countries. Brexit imposed new forms of isolation on British universities, as it cut them off from a number of shared European programmes and projects, including Erasmus+ and possibly also Horizon Europe.[18] So as we can see, nationalism presents a threat both to the very foundations of the European Union, and to the freedom of universities to develop their partnerships, shared research projects, and student and staff exchanges. These limits are expressed both politically and economically (see, e.g., Orbán's impact in Hungary or Brexit).

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15 In the Czech Republic, the strongest voice was the Student Movement for Solidarity at Charles University in Prague that organised both practical help and put together a free access online Encyclopedia of Migration. See Student Solidarity Movement, https://studentizasolidaritu.ff.cuni.cz/.

16 For the abuse of Christian values rhetoric, see, for example, Vlastenecké noviny, /www.vlasteneckenoviny.cz/. In December 2017 the European Commission decided to take action against Poland, the Czech Republic and Hungary for refusing to participate in the refugee relocation scheme, and referred these three countries to the European Court of Justice. See "Poland," Amnesty International, https://www.amnesty.org/en/countries/europe-and-central-asia/poland/report-poland/. I have dealt with this theme in more detail in Ivana Noble, "Contemporary Religiosity and the Absence of Solidarity with Those in Need," *Journal of Nationalism, Memory & Language Politics* 13, no.2 (2019): 224-238.

17 See, for example, Gábor Halmai, "The End of Academic Freedom in Hungary," Droit & Societé, October 21, 2019, https://ds.hypotheses.org/6368; Éva S. Balogh, "The Agony of the Hungarian Academy of Sciences," Hungarian Spectrum, February 6, 2019, https://hungarianspectrum.org/2019/02/06/the-agony-of-the-hungarian-academy-of-sciences/.

18 See Ludovic Highman, "Repositioning UK Partnerships Post-Brexit," *International Higher Education*, no. 95 (2018): 19-21.

A massive use of "fake news," manipulating public opinion and election results, emerged in Belarus in 2020, provoking unprecedented waves of protests throughout the country. Since his rise to power Alexander Lukashenko has used an ideology seemingly opposite to nationalism, which, however, had strong family resemblances to it. He argued that his country should place hope and invest energy into creating a new union of Slavic states associated with Russia. Since his early days as president, Lukashenko has used authoritarian practices, and sought to take control over other legal bodies and autonomous organisations such as universities. He worked towards enforcing a referendum on an agenda severely limiting Belorussian independence and making the country basically a vassal to the Russian Federation.[19] In the fight to keep his presidency after 2020 and the brutal suppression of the protesters and of the remains of the civic society, he used rhetoric that we are familiar with today when Putin defends his so-called "military operation" in Ukraine, that of denazification, and preserving the pure Slavic traditional values from the violent West.[20]

Two concurrent sets of circumstances – Covid-19 and the war in Ukraine – have had a major impact on universities *ad intra* as well as *ad extra*. They have dominated the ways in which universities organize life for students and staff. The war in Ukraine has led them to create new places for refugees, caring for them, and helping them to be integrated and to cope with trauma and loss. Universities have also had to reflect on the situation, learn better how to communicate with the broader public, look at what innovative approaches can be introduced, and accept measures that have an impact beyond the universities themselves. I will address the impact of these crises in the next part. The overview presented here has aimed at offering a broader perspective on the struggle for discerning, supporting and living out hope that makes universities places where people teach and learn how to think critically and act responsibly, how to grasp reality properly and make seeking for illumination

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19 The referendum took place in 1995, and included four points: (1) accepting Russian as a state language; (2) changing state symbols in order to include reference to the Great Patriotic War which Belorussians fought as part of the Soviet Union; (3) integrating the Belorussian economy with that of Russia; (4) granting the president the right to dissolve parliament if parliament stood in his way. At that time only the third point passed through the Chamber of Deputies.

20 See Kiryl Kascian, "Society in the authoritarian discourse: The case of the 2020 presidential election in Belarus," *Intersections. East European Journal of Society and Politics* 7, no.4 (2021): 124–138. For more background, see Ronan Hervouet, *A Taste for Oppression. A Political Ethnography of Everyday Life in Belarus* (Oxford and New York: Berghahn Books, 2021).

and loving the truth their habit. This section has pointed out how this aspiration of universities has been severely challenged in the recent past. Later, when examining relationships and differences between hope, utopia and ideology, we will also return to the question of what we can learn from these challenges in the new situations that arise today, when the autonomy and mission of universities is confronted with values opposite to those on which the universities are built.

What Hope to Stand for when Confronted with Its Caricatures

Recent controversies have demonstrated that hope in public discourse can be used as part of the argument for the elimination of any measures protecting the health of the more vulnerable members of the society,[21] as it can be used for a military campaign drawing on the idea of the "Russian world" and a messianic understanding of nationhood.[22] If universities are to be places of hope that contribute to a holistic personal formation and societal responsibility, the explicit and the implicit work with hope needs to undergo critical scrutiny. Newman's emphasis on illumination and love for truth may be useful in this regard, as long as we are aware that such references are also used by those who hold visions of hope that members of democratic societies who value human freedom, solidarity and peace among nations would not want to share. As an

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21   Here I focus on hope. The broader debate also includes the understanding of freedom and solidarity, and the manipulation of which facts are "allowed" in the so-called post-truth society. See, for example, Kevin M. Cahill, *Perspectives in a Pandemic* (New York: Fordham University Press, 2020); Gerard Delanty, ed., *Pandemics, Politics, and Society: Critical Perspectives on the Covid-19 Crisis* (Berlin: De Gruyter, 2021); Fay Niker and Aveek Bhattacharya (eds.), *Political Philosophy in a Pandemic: Routes to a More Just Future* (London: Bloomsbury Academic, 2021); Dino Numerato, Lenka Vochocová, Václav Štětka, Alena Macková, "The Vaccination Debate in the 'Post-Truth' Era: Social Media as Sites of Multi-Layered Reflexivity," *Sociology of Health & Illness* 41, no.1 (2019): 82-97.

22   A good analysis of the current ideological terrain is in Thomas Bremer, "Ukrainian Nationhood, '*Russkii Mir*,' and the Abuse of History," Public Orthodoxy, March 22, 2022, https://publicorthodoxy.org/2022/03/22/ukrainian-nationhood-russkii-mir/; Jaroslav Skira, "Patriarch Kirill, the 'Russian World' Myth, and Genocide," Public Orthodoxy, March 22, 2022, https://publicorthodoxy.org/2022/03/15/patriarch-kirill-russian-world-genocide/. For earlier analyses, see, for example, Cyril Hovorun, "Interpreting of the 'Russian World,'" in Andrii Krawchuk and Thomas Bremer, *Churches in the Ukrainian Crisis* (Cham – London: Palgrave Macmillan, 2016), 163–171.

example, there is the hope that "traditional values"[23] could be defined in such a way that they would in the long term undercut the prospects for a good and sustainable future both for those who oppose such a vision and those who cling to it.[24]

Distinguishing hope from its caricatures, something that universities need to offer, is clearly visible in practices that come out of university settings. I come from a country where university students in different points of our recent history have actively participated in costly protests against totalitarianism, its ideology and its practices. Jan Opletal, a student from the Medical Faculty, was shot when demonstrating on 28 October 1939, Czechoslovak Independence Day, against the German occupation. Jan Palach, a student of History and Political Economics, could not bear the violent ending of the Prague Spring brought about by the invasion of Warsaw Pact armies in 1968, and thus on 16 January 1969, as a public protest he set himself on fire. Students were at the beginning of the Velvet Revolution in 1989, together with the newly-formed Civic Forum, organising demonstrations, strikes, and preparing the new democratic elections. And then again, in protest against populist policies, when celebrating the beginning of the Velvet Revolution on 17 November 2017,

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23 For the impact of the Russian Orthodox ideology of "traditional values" on the political values since Putin came to power, and on the links with Patriarch Kirill see, for example, Kristina Stoeckel, *The Russian Orthodox Church and Human Rights* (London, New York: Routledge, 2014), 37–40. The double strategy of the Moscow Patriarchate that Stoeckel writes about, that of a peaceful defence of "traditional values" internationally, and a polemical confrontation nationally (ibid, 95} has changed since the time Patriarch Kirill supported the war. For more recent comments, see her podcast "Die russische Kirche hat ihre moralische Autorität eingebüßt," Ö1 Europajournal, ORF Radiothek, March 22, 2022, https://radiothek.orf.at /podcasts/oe1/oe1-europa-journal/christina-stoeckl-die-russische-kirche-hat-ihre-moralische -autoritaet-eingebuesst/. See also Katharina Bluhm, "Die Ideologie hinter Russlands Krieg," ZOiS Spotlight, March 23, 2022, https://www.zois-berlin.de/publikationen/zois-spotlight /die-ideologie-hinter-russlands-krieg/.

24 According to Russian journalist and former official of the Moscow Patriarchate, Sergei Chapnin, "traditional values" are used as a replacement of the evangelical commandments, as a cover for cooperating with Kremlin even in the times when Putin's administration inflicts war on Ukraine, or more exactly, according to Chapnin, starts two wars at once, one against Ukraine, and the other against anyone who would protest against the aggression and against the totalitarian dictatorship in Russia. Chapnin says: "The consequences of these wars will be severe for the peoples of both countries. If the aggression against Ukraine is an open war, with bombings, troops on the territory of an independent state, and military and civilian casualties, the Kremlin's war against Russia seems less obvious. Arrests, political assassinations, trials turned into a farce, torture of prisoners, suppression of independent media, pressure on lawyers and civil activists – all these seem incomparable to open armed aggression, and yet it is a war that the Kremlin is waging hard and consistently against its people." See Sergei Chapnin, "Patriarch Kirill and Vladimir Putin's Two Wars," Public Orthodoxy, February 25, 2022, https:// publicorthodoxy.org/2022/02/25/patriarch-kirill-and-vladimir-putins-two-wars/.

students of Theology and Religious Studies put together a new initiative that spread quickly and resulted in the founding of a civic organisation called "*Million Moments for Democracy*" with a programme to support, foster and cultivate political culture, "promote civic participation, the accountability of elected representatives, and a democratic discussion, thereby increasing the stability of European democratic institutions."[25] In these times we can see similar student initiatives behind the anti-war protests in the West as well as in Russia.

At the same time, it needs to be said that the desire for self-preservation has motivated numerous forms of accommodation with totalitarian practices. We can recall how German universities got rid of Jewish teachers and students during the Nazi period. Coming closer to home, we can recall the numerous academics and students signing anti-Charter 77, or publicly expressing the Communist ideology independently of whether they believed it or not. And now we can see similar initiatives in Putin's Russia. Some academics and students protest against the war, while others express support for Putin's "military operation."[26] This shows that universities are not immune from corruption and weakness. They share it with the rest of the society. But as the protests and so many different courageous actions show, the aspirations of universities so well expressed by Newman still have their cultivating role to play.

With regard to a nuanced and well-grounded hope, student or staff activism is obviously not the only form of expressing integrity and societal responsibility in hard times. The best of expertise and education that universities have to offer contributes to critical analysis, responsible and competent ways of sharing data and their interpretations, projects of sustainable care, skills and mechanisms that make them work. Moreover, their interdisciplinary and international contacts, when and where they are not just formal affiliations, help, for example, in sharing information across disciplinary and national borders, bringing new common innovative possibilities, providing intercultural translations. Experiences of when universities have worked like this provide both hopeful examples

25 See Milion chvilek pro demokracii, https://milionchvilek.cz/english-version/.
26 While Russian students were being arrested for protesting against the war, and thousands of academics and researchers signed the anti-war petition, on 2 March 2022 an expanded meeting of the Council of the Russian Union of Rectors signed a document supporting Putin's war. At an international level this has led to the severing of links with the Russian universities involved, including expelling them from international bodies. The full text of the statement can be found at Polytech, https://english.spbstu.ru/media/news/other/statement-by-the-russian-union-of-rectors/.

that could be followed and re-adjusted in new settings, and tools for criticism when universities act otherwise, and, freely or under political or economic pressure, give up on combining the research and training they offer with formation towards human maturity and societal responsibility.

Hope, Utopia and Ideology

When Newman says that "the cultivation of the intellect is an end distinct and sufficient in itself," because it is its "enlargement or illumination," "mental breadth, or power, or light,"[27] he presupposes that the intellectual dimension of the mission of universities is joined to the spiritual one and both together have an impact on the common good. In the previous part it has been shown why hope that arises out of the university mission needs to be differentiated from its manipulated and misplaced alternatives, that it presupposes discernment.[28] Now we will consider how such discernment has been made in the religious traditions out of which at least European universities arose.

Christians consider faith, hope, and love (charity) to be the fundamental expressions of Christian existence; tradition even called them "theological virtues." This means they are "imparted by God," not gained by any human effort. They are gifts – nonetheless, gifts one should strive for.[29] This tradition teaches that a genuine hope is recognisable in its long-term effects. Hope uplifts the human spirit, creates bonds among people, inspires and purifies human activities. It encourages people and helps them in times of abandonment. It allows them to rise beyond despair or selfishness.[30] And yet, as the current discourse on hope demonstrates, in the traditions of not only Christianity but also Judaism and Islam, we find strong voices differentiating hope from a naïve optimism that filters facts, selecting only those that support an expectation of assumed

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27 Newman, *The Idea of a University*, Discourse VI, 2.
28 The concept of discernment comes from the Greek. It combines *dia* (between) and *krínein (judge, decide). Diakrínein* then means to separate out, to make a distinction, to learn by discriminating, to determine, to decide, to give a judgment. The substantive *diákrisis* is derived from such an operation. In traditions of religious practice discernment includes both working with human interiority, and social processes in which reaching a common decision well is at stake.
29 See 1 Cor 13:3; 1 Thess 1:3; 5:8; Eph 1:15–18; Col 1:4f; 1Pt 1: 3-4.
30 For a summary of the biblical and early Christian grounds for a current interpretation of hope, see Ivana Noble, *Tracking God: Tracking God: An Ecumenical Fundamental Theology*. (Eugene, Oregon: Wipf & Stock, 2010)*, 8-10.

good outcomes. Jonathan Sacks,[31] Pope Francis,[32] the Ecumenical Patriarch Bartholomew,[33] Jürgen Moltmann[34] and Abdal Hakim Murad,[35] to name a few, emphasize that discerning hope rests on the experience of and wisdom in identifying illusory filters and shortcuts, as well as agendas harmful towards others, towards nature and in effect even towards the self. Discerning hope works with vulnerability and strengthens resilience. And yet, in order to find expressions that gather people together and give them particular aims, even discerning hope is not completely isolated from utopias, even if it is not reducible to them. When we take hope not only as a theological virtue but also as a process that helps in believing in and making the world a better place for life, and as a symbolic description of a partial desired destination, we are already within the utopian discourse. [36]

Ernst Bloch, a German philosopher of Jewish origin who had to flee Germany when the Nazis came to power, reflected during his exile on the complex relations between hope and utopias and their presence in what he called a cultural heritage out of which our dreams of a better

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31 See Jonathan Sacks, *The Dignity of Difference* (London: Bloomsbury, 2003); *From Optimism to Hope* (London: Bloomsbury, 2004); *To Heal a Fractured World: The Ethics of Responsibility* (London: Bloomsbury, 2006); *The Home We Build Together* (London: Bloomsbury, 2009).

32 See especially Pope Francis, "Laudato Si'," Vatican, 24 May, 2015, http://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html/; "Fratelli Tutti," Vatican, October 3, 2020, http://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20201003_enciclica-fratelli-tutti.html/. See also Pope Francis, The Ecumenical Patriarch Bartholomew, and the Archbishop of Canterbury Justin Welby, "A Joint Message for the Protection of Creation," Vatican, September 21, 2021, https://www.vatican.va/content/francesco/en/messages/pont-messages/2021/documents/20210901-messaggio-protezionedelcreato.html/.

33 See The Ecumenical Patriarch Bartholomew I, "Message for the World Day of Prayer for the Care of Creation," Vatican News, September 1, 2020, https://www.vaticannews.va/en/church/news/2020-09/bartholomew-i-message-for-world-day-of-creation-full-text.html; *Encountering the Mystery: Understanding Orthodox Christianity Today* (New York: Random House, 2008); John Chryssavgis, ed., *In the World, Yet Not of the World: Social and Global Initiatives of Ecumenical Patriarch Bartholomew* (New York: Fordham University Press, 2009); John Chryssavgis, ed., *On Earth As In Heaven: Ecological Vision and Initiatives of Ecumenical Patriarch Bartholomew* (New York: Fordham University Press, 2012).

34 See esp. Jürgen Moltmann, *Theology of Hope: On the Grounds and the Implications of a Christian Eschatology* (London: SCM, 1974); *The Open Church: Invitation to a Messianic Lifestyle* (London: SCM, 1978); *On Human Dignity: Political Theology and Ethics*, Philadelphia (PA: Fortress, 1984); *The Spirit of Hope: Theology for a World in Peril* (Geneva: WCC, 2019).

35 See esp. Abdal Hakim Murad, *Travelling Home: Essays on Islam in Europe* (London: Quilliam Press, 2020).

36 The expression "utopia" is attributed to Thomas More who gave his political satire (1516) that title. This part of the text draws on Ivana Noble, *Tracking God: An Ecumenical Fundamental Theology* (Eugene, Oregon: Wipf&Stock, 2010), esp. 154–186, where I have analysed utopia at greater length.

life arise. Bloch was aware that in modern debate, utopias made hope more tangible but also more open to abuse. Yet he refused to identify utopias with the dominant ideologies of his time. Utopia in his understanding represents the "world" that has not been adequately included in the contemporary model of socio-cultural relationships, the world that lives in promises, longings, images, or dreams of better tomorrows.[37] In the second part of his *Principle of Hope* Bloch elaborates in detail various forms of utopias that resonate with our contemporary situation. He distinguishes between five basic types: (i) medical utopias oriented to the struggle for health; (ii) social utopias oriented to freedom and just order; (iii) technological utopias oriented to the victory of humankind over nature; (iv) architectural utopias oriented to buildings that depict a better world; and lastly geographical utopias (v) oriented to the rediscovery of the lost paradise. [38]

The Brazilian theologian João Batista Libanio[39] points to the twofold etymology of the word "utopia": *ouk topos* (no place) and *eu-topos* (good place). Using this twofold etymology, he explains the tension between reality and unreality that contains human longing for happiness, joy, peace, and fulfilment of life, and that underlies the process in which hope is turned into utopias. According to Libanio, utopia expresses human longings for a truly just order, a truly humane social world that corresponds with the dreams, needs, and ultimate goals of human life. Utopia is an image of a perfect society that creates a horizon for real projects in history and the desire for alternative projects in regard to the current situation and enables them to move towards their goal.[40]

Utopia also has another positive function: it accuses the contemporary world of not providing space for the positive alternatives represented by the images of the possible good places. Thus the utopian "world," though resented by the dominant world, subverts with its very non-existence what actually exists.[41] Utopia is born in a time of crisis

37 This part of the chapter draws on my earlier analysis of utopia presented at greater length in Noble, *Tracking God,* 154–157, 166–186.

38 See Ernst Bloch, *The Principle of Hope* II (Cambridge, Mass.: MIT, 1996), 454–794.

39 See J.B. Libanio, "Hope, Utopia, Resurrection," in J. Sobrino and I. Ellacuría, *Systematic Theology. Perspetives from Liberation Theology* (London: SCM, 1996), 279–90.

40 Libanio, "Hope, Utopia, Resurrection," 281.

41 See Libanio, "Hope, Utopia, Resurrection," 282. Libanio shows that a similar theme is already present in the Bible, although not the expression itself, which, as noted, appeared only in the 16th century. Israel knows agricultural, political and religious utopias. In the New Testament we can find a social utopia that served as a model for the communist utopias, utopias about sharing spiritual goods, and apocalyptic utopias. For more detail, see J. Pixley, "Las utopías

and change, and such time marks both of its functions, that of providing a positive figurative goal, and that of subverting what does not allow the positive transformation.[42] The utopian visions of better worlds and of the subversion of the momentary unbearable state of affairs are always historically and culturally conditioned. Nevertheless, for Libanio, utopias do not represent an absolutely good future, if they participate in the common good, they embody something of the eschatological promises.[43]

It is important to note that neither according to Bloch's nor according to Libanio's distinctions would the "Russian world" classify as utopia, but rather as an ideology causing the death of what once might have been utopia or at least operated with some elements of utopia. Utopias as partial embodiments of hope, according to these authors, do not cause harm or trauma to human longing for a better world, for a truly just order. They do not permit violence against those who do not belong to the constructed aims or to those who criticize them. Rather, as we can see the promulgated "Russian world" with its "traditional values" contributes to making the lived reality so brutal that many people have no strength to even dream of a utopian world, while others create utopian alternatives to the dominant ideology. Hope, however, according to Libanio, can reach both groups, because it does not fully pass into even our best utopian projects. It has its founding eschatological dimension, where it is not dependent on people's abilities, on their power, their ideas, but it comes as a gradual or unexpected healing and illumination, as renewed promises drawing on God's power.[44]

The nuanced discerning approach to hope that universities should cultivate needs to work consciously with the utopian side of hope, and also with its limits and its openness to abuse. In secular settings it may not help to emphasize the grounding of the eschatological dimension of hope in God. And yet, even there the particular, historically conditioned

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principales de la Biblia," in *La esperanza en el presente de America Latina*, ed. R. Vidales and L. Rivera (San José: DEI, 1983), 313–330.

42 Thus, Libanio says, the passage from feudalism to early capitalism brings Renaissance utopias (More, Campanella, Bacon); the struggle between the bourgeoisie with its growing power and feudal rulers gives rise to liberal utopias (Harrington, Rousseau, Locke). The protest against the oppression of the working classes gives rise to social utopias (Saint-Simon, Fourier, Owen, Blanc). The dehumanizing influence of technology, progress, and functionalist approaches to human relationships gives rise to communal types of utopia (Hippies), etc. See Libanio, "Hope, Utopia, Resurrection," 282.

43 Ibid.

44 Abraham is, for Libanio, a representative of such hope, one who hopes against hope. See Libanio, "Hope, Utopia, Resurrection," 282–83; compare Rom 4:18–22.

ideas and visions of the hoped-for world are in operation, they are needed and they must leave some room for distance, for their relativisation, for allowing hope to come despite them and not only through them. Without that dimension utopian projects turn into closed ideological constructs.

I have used the concept of ideology with a negative meaning several times. Even here it is necessary to be aware that it is not the only meaning. In social sciences ideology is perceived as the lens through which people view the world. It is seen neutrally, as a system of assumptions, convictions and concepts that stands behind how human relations in society are organized, and how society works, or at least should work. It is recognised that ideology has ties to both the social structure, economic system, and political structure emerging from them and supporting them.[45] It is made clear that ideology is not just something "nasty" that others have and we do not. If universities are to cultivate free critical thinking, such thinking must include an awareness of how ideologies draw on utopias and through utopias on hope, how the links are made, and where and why ideologies can lead to mortal danger or the death of utopias. They need to explain how and why particular ideologies have formed their agendas, and how and why they used utopian images of hope for the justification of their aims.

In one of the classical definitions of ideology given by J. B. Thompson we read that ideologies are providers of "the ways in which meaning (or signification) serves to sustain relations of domination."[46] Terry Eagleton highlights that the use of the expression "ideology" has several negative and positive, explicit and implicit meanings that might not necessarily be compatible with each other.[47] While Eagleton repeatedly makes it clear that we all need narratives "providing the non-exhaustive matrix for our actions,"[48] he points out some of the negative and distortive features of ideologies, how they operate as control systems over the process of production and exchange of goods as well as meanings, signs, and values

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45 See Nicki Lisa Cole, "Theories of Ideology," ThoughtCo, February 16, 2021, https://www.thoughtco.com/ideology-definition-3026356/.

46 J. B. Thompson, *Study in the Theory of Ideology* (Cambridge: Polity Press, 1984), 4.

47 "The word 'ideology,' one might say, is a *text*, woven of a whole tissue of different conceptual strands; it is traced through by divergent histories, and it is probably more important to assess what is valuable or can be discarded in each of these lineages than to merge them forcibly into some grand global theory." Terry Eagleton, *Ideology: An Introduction* (London and New York: Verso, 1994), 1. In the following text, Eagleton distinguishes between sixteen areas in which ideology can appear.

48 Terry Eagleton, *The Illusions of Postmodernism* (Oxford: Blackwell, 1997), 111.

in social life, how they create and sustain ideas that help to legitimate a dominant power, often at the expense of distorting communication. [49]

Ideologies, according to Eagleton, have a tendency to confuse linguistic and phenomenal reality: what is being said with what is the case. He is aware that such distortions are easier to identify in others than in myself/ourselves.[50] But as no society and no group, not even a university, is ever free of such distortions, it is important to direct the critical analysis of the relations between what is being said and what emerges at the phenomenal level to all parts of discussions, even of conflicts. This does not exclude those times when a sharp judgment and clear word are needed. I do not want to defend here either relativism or alibism. Coming back to the examples used in this chapter, the requirement of a critical analysis should not serve as a justification for downplaying the importance of health measures and social solidarity in times of a pandemic or identifying who is an aggressor and who is invaded in times of war. Rather, it leads to a recognition of long present ideological clashes and possibly of hopes that have been exploited via the underpinning remains of utopias. That is something that can make an indispensable contribution when renewal of contacts and of relationships of trust can take place.

Concluding Remarks

The relationship between expertise and education experienced at our universities is multifaceted. It pleases me to see our universities criticize xenophobia, nationalism, enforced pan-Slavism, when they oppose war, as well as when students and staff work against the destruction of the environment. Unfortunately, however, counterexamples can also be found. The autocratic totalitarian practices returning to Russia, Belarus, and partly also to Hungary, as well as the separatist tendencies coming to the fore in Brexit, have an impact even on the wide-ranging expertise of universities, their international cooperation or good contacts with graduates. As the recent document of the Council of the Russian Union of Rectors supporting Putin's war has shown, hope, like human maturity and societal responsibility, has been ridiculed by the universities

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49   See Eagleton, *Ideology*, 1–2.
50   Ibid.

themselves. Living with risk and danger is difficult for individuals as well as institutions. Like the rest of the society students, teachers and academic representatives and bodies are prone to legitimize their lack of resilience, their inability to resist opposing claims and values to those on which universities are built by referring to what may be called an "ethic of control," sometimes hidden in "an ethic of self-sacrifice."[51] But then, people skilled in critical thinking and capable of compassion should differentiate between the excuses, the covering up of what is going on, the participation in rhetoric divorced from reality, and the actual situation of human and institutional vulnerability in situations of persecution, violence, harm and trauma.

Not only war and totalitarian autocracy, but also the Covid-19 pandemic have taught us that students and staff members could break under pressure, fall into depression, develop phobias, create isolation and believe all kinds of fake news. When universities work well with situations of vulnerability, they include such experiences both in their multidisciplinary critical analysis, and projects of care and of strengthening resilience. This also belongs to education towards human maturity and societal responsibility. Accepting that they work not only with human strength but also with human weakness is one of the ways universities can distance themselves from unhealthy elitism. By this I do not mean resigning themselves to the fact that elites will be and should be formed by the universities, for these are not the type of elites that assume a superiority complex or expect priority treatment compared to the rest of the society. Such attitudes are often commented upon in anti-intellectualist populist propaganda, often wrongly attributed to universities, but sometimes rightly. Moreover, universities need to work well with a paradox that while populist politicians and their anti-intellectual voters publicly criticize universities, they make sure in private that their children attend the best ones.

In European societies we face not only elitism, but also a deeply rooted scepticism towards the elites. This is linked to their disrupted roots and the fact that the new "elites" are presented more like football stars or show business celebrities. Universities are, therefore, faced with some very important challenges involving communication of their values,

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51   See Mikkel Gabriel Christoffersen, *Living with Risk and Danger: Studies in Interdisciplinary Systematic Theology* (Göttingen: Vandenhoeck & Ruprecht, 2019), 42. He draws on Sharon Welch, *A Feminist Ethics of Risk* (Minneapolis, Minnesota: Fortress, 2000).

views and findings to the general public, including that section of the public which has a paradoxical relationship to them.

Knowing the weakness within university circles themselves and of the shadows accompanying universities throughout history up to present times should not make universities give up on the fundamental ideas of a general education, a holistic overview, interdisciplinary communication and cooperation across the disciplines encapsulated in the project of universities. Rather such knowledge, together with so many examples of good practise, should help their mission. Such a mission is not reducible to the immediate "usefulness" of knowledge, even if this element also needs to be present. After all, even initiatives for helping refugees, challenging nationalism and attacks on a nation's sovereignty, challenging post-truth politics, creating Hate Free Zones, draw, at least partly, on such usefulness too. Free and critical thought, and holistic human formation, however, have a wider-ranging scope. The hope for universities, I think, still lies in rediscovering the centuries-long tradition of struggles for and achievements of the "enlargement of mind, illumination, intellectual culture," in which people and institutions are encouraged, accompanied and interconnected in reaching towards the truth and grasping it.[52]

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52   See Newman, *The Idea of a University,* Discourse VI, 1.

What Do Universities Face in the 21st century?

Neoliberalism and the Quantification of American Higher Education

Saralyn McKinnon-Crowley

Recently, I started a new position after seven years at my previous institution. Nominally, I traded one "R1" (research-intensive) institution for another – for example, Harvard University and the University of California, Berkeley are both R1 institutions. In reality, I moved from one entire educational paradigm to another. As my colleagues are fond of reminding me, I came from a school with a dedicated college of education to one lacking that type of unit altogether. My current institution offers no "of arts" or even "of education" degrees, only "of science" degrees. As you might imagine, this designation reflects the institution's priorities. This professional change has inspired me to reflect on, among other things, the purpose of education and the role of quantifiable truth in a neoliberal world. In this chapter, after briefly discussing American higher education systems and defining neoliberalism, I shall write about the higher education funding crisis in America and offer thoughts about its neoliberal causes. Then, I will move to a discussion of my individual experiences of neoliberalism at work in one functional area of higher education, Student Conduct, and how the philosophy impacts faculty. I will conclude with thoughts about what to change.

An Overview of American Higher Education

First, let me give a brief overview of American higher education systems. There are multiple institutional types and funding streams for those institutions, including for-profit and not-for-profit educational institutions. There are institutions with different purposes, such as technical

Private

For-Profit

Public

Not-for-Profit

Granting Associate's degrees (2-years)

Granting Bachelor's degrees (4-years)

Community Colleges

Research-Intensive/R1s

High Research-Activity/R2s

Teaching Institutions
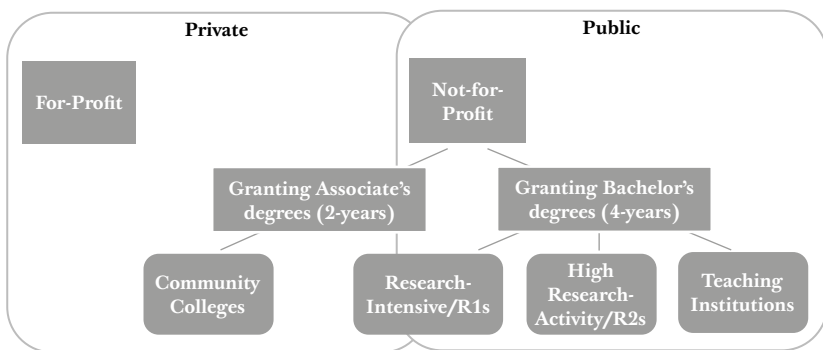
and vocational colleges and four-year institutions that grant bachelor's degrees; see Figure 1 for an illustration.

The federal government counted 3,982 public and private institutions in 2019-2020.[1] Briefly, American public institutions get more of their funding from federal and state governments than private institutions.[2] Stefan Collini reminds us, however, that "we should…not let the familiar distinction between 'public' and 'private' money pass unchallenged, especially given the extent to which so-called 'private finance' is in practice also sustained by 'public' infrastructure and subsidy."[3] The American higher education system is characterized by its seeming porousness.[4] Theoretically, a student could enter the system at any point in the hierarchy of institutional quality and then graduate from a high-prestige institution with an undergraduate or graduate credential. Actually, that recently happened with a colleague of mine, who received an alternative education diploma from secondary education and graduated with a Ph.D. from a high-prestige institution. What determines institutional quality is wrapped up in neoliberal aims. While the reality is quite a bit more complicated and more in favour of the rich getting richer and/or preserving their wealth and social status, the expansion of higher education systems

1   Josh Moody, "A Guide to the Changing Number of U.S. Universities," U.S. News and World Report, last modified April 27, 2021, https://www.usnews.com/education/best-colleges/articles/how-many-universities-are-in-the-us-and-why-that-number-is-changing/.

2   Nathan E. Lassila, "Effects of Tuition Price, Grant Aid, and Institutional Revenue on Low-Income Student Enrollment," *Journal of Student Financial Aid* 41, no. 3 (2011): 33, https://ir.library.louisville.edu/jsfa/vol41/iss3/2/.

3   Stefan Collini, *What Are Universities For?* (New York: Penguin Books, 2012), 90.

4   David B. Monaghan and Paul Attewell, "The Community College Route to the Bachelor's Degree," *Educational Evaluation and Policy Analysis* 37, no. 1 (2015): 70–73, https://doi.org/10.3102/0162373714521865/.

in America from elite ones – the province of the wealthy few – to mass or even universal ones in which anyone could enter at any point and receive a theoretical boost to their lifetime monetary earnings as a result of their degree is one of the hallmarks of the system.[5] It is certainly controversial to discern what the purpose of American higher education actually is,[6] but economic benefit to the individual is indeed a purpose of higher education, perhaps amplified by the common statistic that those with bachelor's (4-year) degrees earn a million dollars more on average over their lifetimes compared to those without.[7] In my read, the purpose of higher education in America is wrapped up in neoliberalism.

Neoliberalism and American Higher Education

As we are likely all aware, neoliberalism is a commonly-used and often imprecisely-defined term in academia and the broader world.[8] My favorite definition comes from Wendy Brown: "the rationality through which capitalism finally swallows humanity."[9] Broadly, I view neoliberalism as a series of policy priorities, institutional structures, and overall discourse in a Foucauldian sense[10] that has far-reaching implications for all governmental and other operations. As I have written elsewhere, neoliberalism is "the dominant philosophical orientation that deploys the logic of the free market and requires individuals and other entities to be maximally productive and self-sufficient in order to justify their existence in an economic system built upon precarity."[11] As I will discuss later, the discourse of neoliberalism has wormed its way into other areas of

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5   Collini, *What Are Universities For?*, 41; Martin Trow, "Reflections on the Transition from Mass to Universal Higher Education," *Daedalus* 99, no. 1 (Winter, 1970): 3–7.

6   Eliza Epstein and Saralyn McKinnon-Crowley, "(D)riven by Neoliberalism: Exploring Alternative Purposes for Higher Education," *Texas Education Review* 8, no. 2 (2020): 6, 13, http://dx.doi.org/10.26153/tsw/9206/.

7   Michael Hout, "Social and Economic Returns to College Education in the United States," *Annual Review of Sociology* 38, (2012): 387. https://doi.org/10.1146/annurev.soc.012809.102503/.

8   Epstein and McKinnon-Crowley, "(D)riven by Neoliberalism," 8.

9   Wendy Brown, "Undoing Democracy: Neoliberalism's Remaking of State and Subject," in *Undoing the Demos: Neoliberalism's Stealth Revolution* (Cambridge: The MIT Press, 2015), 8.

10 Michel Foucault, "The Confession of the Flesh," in *Power/Knowledge: Selected Interviews and Other Writings 1972–1977*, trans. and ed. Colin Gordon (New York: Pantheon Books, 1980), 196–198, 203; Aaron Voyles, Saralyn McKinnon-Crowley, and Beth Bukoski, "Absolution and Participation in Privilege: The False Fronts of Men Student Affairs Professionals," *Philosophy and Theory in Higher Education* 1, no. 2 (2019): 97–99, https://doi.org/10.3726/ptihe.2019.02.05/.

11 Epstein and McKinnon-Crowley, "(D)riven by Neoliberalism," 8.

contemporary life. The neoliberal discourse ensures that any governmental or public funds be deployed in justifiable ways. The justifiable ways must be numerical to have meaning and to be comprehensible to the decision-makers and stakeholders guiding decisions, even though "not everything that counts can be counted," in Collini's words.[12] Progress is meaningless without numbers.

In the United States – and in the United Kingdom[13] – neoliberalism had its initial heyday in the Thatcher/Reagan era of the 1980s, though it is certainly arguable to see its roots in earlier policy developments. Friedrich Hayek set the philosophical groundwork for neoliberalism.[14] He was an economist from the early twentieth century and argued that the market should be the sole regulator of private business dealings.[15] The government had no place there, in Hayek's view. The hugely influential if not particularly famous George Mason University American economist, James M. Buchanan, was responsible for the application of Hayek's notions in the *private* sector to the *public* sector.[16]

Moving back to the present day, I will briefly outline how neoliberalism manifests in American higher education. Prior to World War II, Americans thought that higher education was a private good, a concept that changed during the war.[17] As the historian of education David F. Labaree argued, during World War II and the subsequent Space Race, the United States federal government concluded that the best way to gain an advantage in the rush to get to outer space first was to pour funding into colleges and universities.[18] The increased funding and government support for research conducted in higher education (particularly public institutions) framed the attainment of a college degree as both a civic duty and a civic boon.[19] The benefits of higher education are borne out by

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12 Collini, *What Are Universities For?*, 120.

13 James Esson and Hubert Ertl, "No Point Worrying? Potential Undergraduates, Study-Related Debt, and the Financial Allure of Higher Education," *Studies in Higher Education* 41, no. 7 (2016): 1266–1268, https://doi.org/10.1080/03075079.2014.968542/.

14 Mark Olssen and Michael A. Peters, "Neoliberalism, Higher Education, and the Knowledge Economy: From the Free Market to Knowledge Capitalism," *Journal of Education Policy* 20, no. 3 (2005): 316–319, https://doi.org/10.1080/02680930500108718/.

15 Olssen and Peters, "Neoliberalism, Higher Education, and the Knowledge Economy," 317.

16 Ibid., 317–319.

17 David F. Labaree "An Affair to Remember: America's Brief Fling with the University as a Public Good," *Journal of Philosophy of Education* 50, no. 1 (2016): 26, https://doi.org/10.1111/1467-9752.12170/.

18 Labaree, "An Affair to Remember," 29, 33.

19 Ibid., 26–30.

the literature.[20] As the sociologist Michael Hout stated, "education makes life better. People who pursue more education and achieve it make more money, live healthier lives, divorce less often, and contribute more to the functioning and civility of their communities than less educated people do."[21] The boom period of higher education funding, which had lulled Americans into a sense of complacency about who should pay for college, lasted until the 1970s. Public opinion then decided that the societal and individual benefits of an educated citizenry should be individually funded. I say "public opinion" but that is neither unconstrained by societal factors nor freely formed. Discourses are powerful things.[22] During the 1970s, the tax revolt (a very strong anti-tax movement) that began in the state of California questioned the role of the public in funding governmental programs.[23] This line of thought further extended to higher education.

In a climate of antipathy toward funding any civic goods, higher education – like other social services – became a victim of decreased federal and state financing. As Labaree wrote, "the idea was that a college degree was a great investment for students, which would pay long-term economic dividends, so they should shoulder an increasing share of the cost"[24] via loans rather than state-funded higher education grants. Loans need to be repaid; grants do not. During the 1980s, American President Ronald Reagan spurred a fiscally conservative economic agenda that decreased federal support for both research and student aid. This pattern has continued at the state level.[25]

A privatized style of operations now governs higher education. Like other governmental programs whose operations are growing to resemble the private sector in neoliberal times, higher education is experiencing decreased state and federal funding and a corresponding decline in centralized regulation in some areas.[26] Public higher education will likely

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20 Paul N. Courant, Michael McPherson, and Alexandra M. Resch, "The Public Role in Higher Education," *National Tax Journal* 59, no. 2 (2006): 310. https://dx.doi.org/10.17310/ntj .2006.2.06/.

21 Hout, "Social and Economic Returns to College Education in the United States," 394.

22 Voyles, McKinnon-Crowley, and Bukoski, "Absolution and Participation in Privilege," 99–100.

23 Labaree, "An Affair to Remember," 32.

24 Ibid., 33.

25 Michael K. McLendon, James C. Hearn, and Robert G. Hammond, "Pricing the Flagships: The Politics of Tuition Setting at Public Research Universities" (unpublished manuscript, June 15, 2013), PDF file, 2–3. https://citeseerx.ist.psu.edu/viewdoc/download ?doi=10.1.1.531.9066&rep=rep1&type=pdf/.

26 Michael K. McLendon and Christine G. Mokher, "The Origins and Growth of State Policies that Privatize Public Higher Education," in *Privatizing the Public University*, ed. Christopher

become similar to private education in its high-tuition, high-aid financing structures,[27] meaning that institutions have a very high so-called sticker price, the price listed as the cost of a good. In reality, they provide substantial discounts for most students and their families and comparatively few students actually pay the listed cost of higher education out of pocket.[28]

I would argue that neoliberalism has caused the higher education funding crisis in America; the United Kingdom's changes in higher education financing are certainly springing from a similar though not identical historical context.[29] Over the last four decades, financial governmental support for higher education has dwindled dramatically, a trend that shows no sign of reversing. Donald Heller, a higher education economist, found that per-student appropriations were 21.6% lower in 2011 than in 1986.[30] The state was giving 20% less money per student to institutions. In 1988, public universities received 3.2 times as much revenue from state support as they did from tuition; as of 2015 they receive 1.1 times as much.[31] Tuition is the cost of attending a particular institution, not counting books, housing, or any extra fees. Between 1991 and 2006, the public policy scholar Steve Hemelt and public administration researcher Dave Marcotte found that the average tuition rates at public institutions

C. Morphew and Peter D. Eckel (Baltimore: The Johns Hopkins University Press, 2009), 11–12, 20–22.

27 Mark Stater, "Policy Lessons from the Privatization of Public Agencies," in *Privatizing the Public University*, ed. Christopher C. Morphew and Peter D. Eckel (Baltimore: The Johns Hopkins University Press, 2009), 154–155.

28 Lindsay C. Page and Judith Scott-Clayton, "Improving College Access in the United States: Barriers and Policy Responses," *Economics of Education Review* 51, no. 6 (April 2016): 6, https://doi.org/10.1016/j.econeducrev.2016.02.009/.

29 Collini, *What Are Universities For?*, 33–36; Collini, *Speaking of Universities*, 133; Esson and Ertl, "No Point Worrying?", 1266–1269; Saralyn McKinnon-Crowley, "A Public or a Private Good? Financing Higher Education in England and Germany," *Graduate Student Journal of Higher Education* 1 (2018): 11–12, https://gradjournal.orgs.wvu.edu/files/d/0c1a48b1-e4f2-45cf-9cde-4b95507aad5a/gsj-of-hied-volume-1.pdf; In *Speaking of Universities*, Stefan Collini makes some similar points regarding accountability movements and the culture of higher education in the British context but is reluctant to lay the blame squarely on neoliberal ideology. We differ there due to our interpretation of exactly how far-reaching the neoliberal discourse has been in American culture. Stefan Collini, *Speaking of Universities* (London: Verso, 2017), 37–41.

30 Donald E. Heller, "Does Federal Financial Aid Drive up College Prices?" Washington, DC: American Council on Education, Monograph, p. 6, last modified April 2013, https://www.acenet.edu/Documents/Heller-Monograph.pdf.

31 Michael Mitchell and Michael Leachman, "Years of Cuts Threaten to Put College out of Reach for More Students," Washington, DC: Center on Budget and Policy Priorities, Report, p. 15, last modified May 13, 2015, https://www.cbpp.org/research/state-budget-and-tax/years-of-cuts-threaten-to-put-college-out-of-reach-for-more-students/.

rose 4.2% per year.[32] Only recently has state funding equaled pre-Great Recession levels of support; on average states invest 20% less money per student than they did in 2007–2008.[33] One study predicts that based on the current trajectory of state funding for higher education, by 2059 state support will reach zero dollars.[34] Higher education institutions, then, must assume that the proportion of their budgets that come from state funding will not grow in the future.

Neoliberal Funding Patterns and Student Impacts

Neoliberal funding patterns are hurting students. To put this into perspective, let me take an example from the institution where I received my Ph.D., the University of Texas at Austin. If you were a full-time student residing in the state of Texas during the 2021–2022 academic year, the institution estimates that your lowest cost to attend – not including housing and food or book expenses – the lowest cost to you would be 18,120 American dollars, or as of this writing 17,449 euros or 26,965 Australian dollars.[35] The median earnings of individual workers in 2019 were, however, 41,537 American dollars, 39,998 euros, and 61,812 Australian dollars.[36] So, for the average worker the colleges costs would be nearly 40% of their income, not including financial aid that provides discounts. Funding from state sources has also fallen during this time, with state support for UT Austin shrinking from 47% of the overall institution's budget in 1980–1981 to 22% in 2000–2001 and to 10% in 2020–2021.[37] To get a sense of scale, 10% of the current UT Austin budget is 337 million

32 Steven W. Hemelt and Dave E. Marcotte, "The Impact of Tuition Increases on Enrollment at Public Colleges and Universities," *Educational Evaluation and Policy Analysis* 33, no. 4 (2011): 439. https://doi.org/10.3102/0162373711415261/.

33 Mitchell and Leachman, "Years of Cuts Threaten to Put College out of Reach for More Students," p. 1.

34 Thomas G. Mortenson, "State Funding: A Race to the Bottom," accessed October 2017, https://rampages.us/pedagogy/2016/09/23/state-funding-a-race-to-the-bottom-allie-fischer/.

35 "Cost of Attendance," 2021–2022 Estimated Cost, The University of Texas at Austin, accessed February 14, 2022, https://onestop.utexas.edu/managing-costs/cost-tuition-rates/cost-of-attendance/.

36 Jessica Semega, Melissa Kollar, Emily A. Shrider, E. and John Creamer, "Income and Poverty in the United States: 2019: Current Population Reports," Washington, DC: United States Census Bureau, Report, p. 9, last modified September 15, 2020, https://www.census.gov/library/publications/2020/demo/p60-270.html/.

37 "A Primer on the University Budget: Fiscal Year 2020-21," The Budget Office, The University of Texas at Austin, accessed August 15, 2021, https://budget.utexas.edu/about/budget/.

American dollars, 324,561,330 euros, or 501,499,180 Australian dollars. The falling state support has meant that institutions of higher education make up the loss in costs to students and their families. Less state support means more individual support.

College is expensive because institutions of higher education have no incentive to reduce the burden borne by the college student consumer. In an economic climate of shrinking and uncertain state funding due to neoliberalism and increased demand for student services and amenities like good food and an attractive physical campus, institutions cannot lower costs because tuition and fees – the part of college costs directly paid by students and their families – are the one arena over which they exercise some measure of control. State support is not likely to increase. The dominant neoliberalism discourse holds that higher education is a private (not public) good and benefits students – the consumers of education[38] – in the form of social gains or mobility[39] and that the costs of a degree should be borne by students and their families rather than the state. So far, consumers of higher education have been willing to pay the price for higher education; demand has kept pace with supply, even at the current cost of attendance.[40] I am using the term "consumer" advisedly, as I will discuss below. Because students and their families have been willing to pay the high cost of college, and there are no guarantees of increased support from any other sources, higher education institutions have no reason to lower consumer costs. I also argue that administrator salary, a popular punching bag for the media and other stakeholders in higher education,[41] has risen so sharply due to the amount of work required to retain an increasingly-shrinking amount of the available funding. The neoliberal model requires that administrators do substantial work to prove they and their institutions deserve a small portion of state monies and justify the state expenditure numerically. A mistake on the part of an administrator could cost the university millions of dollars.

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38 Collini, *Speaking of Universities*, 158.

39 David F, Labaree, "Public Goods, Private Goods: The American Struggle Over Educational Goals," *American Educational Research Journal* 34, no. 1 (1997): 9, https://doi.org/10.2307/1163342/.

40 Hemelt and Marcotte, "The Impact of Tuition Increases on Enrollment at Public Colleges and Universities," 452.

41 Matt Krupnik and Jon Marcus, "Think University Administrators' Salaries are High? Critics Say Their Benefits are Lavish," The Hechinger Report, August 5, 2015, https://hechingerreport.org/think-university-administrators-salaries-are-high-critics-say-their-benefits-are-lavish/.

Though the amount of public money invested in institutions is ever-dwindling, somewhat counterintuitively members of the public still believe they have a stake in the operation of the institution. When I used to live in Austin, Texas, there was a large billboard near a very busy highway decrying the low graduation rates of Austin Community College. An article about similar billboards in Dallas proclaimed: "8% of DCCCD students graduate in 3 yrs. Is that fair to the students? TX Assn of Business."[42] This referred to the Dallas County Community College district. The Austin billboard mentioned a 4% graduation rate and stated: "Is that a good use of tax \$?"[43] While Austin Community College responded that the numbers only addressed first-time in college, full-time students, who are not representative of all community college students, the neoliberal argumentation here is quite stark. The billboard explicitly links graduation rates to expenditures of tax money, with the implication that the low graduation rates are not, in fact, a good use of taxpayer resources. To be clear, community colleges are not single-purpose institutions. As most often members of the not-for-profit and public branch of U.S. higher education (see Figure 1), they serve multiple functions, including offering certificates or credentials rather than degrees, and providing general interest or personal edification classes like horticulture. Community colleges also prepare students to transfer to four-year institutions so they can receive bachelor's degrees[44] and offer both associate's and in some cases bachelor's degrees. The ACC mentioned in this billboard, for example, recently began offering bachelor's degrees in nursing.[45]

I can report personally based on my time working in American higher education that the funding crisis promotes a "you work for us" narrative on the part of students and their families, and apparently the Texas Association of Business. In the chapter so far, I have discussed the policy

42 Paul Fain, "Behind the Billboards," Inside Higher Ed, December 14, 2011, para. 2, https://www.insidehighered.com/news/2011/12/14/texas-business-groups-billboard-campaign-completion-rates/.

43 Ibid.

44 Lauren Schudde and Sara Goldrick-Rab, "On Second Chances and Stratification: How Sociologists Think about Community Colleges," *Community College Review* 43, no. 1 (January 2015): 36, https://doi.org/10.1177/0091552114553296/; Dennis A. Kramer, Justin C. Ortagus, and Jacqueline Donovan, "Competing for Bachelor's Degrees: Are Community Colleges Cutting into the Market Share of 4-Year Institutions?," *American Educational Research Journal* 58, no. 2 (2021): 344–345, https://doi.org/10.3102/0002831220946309/.

45 Sydney Pruitt, "ACC's first bachelor's degree students complete the BSN program," ACC Newsroom, last modified August 8, 2019, https://www.austincc.edu/news/2019/08/acc%E2%80%99s-first-bachelor%E2%80%99s-degree-students-complete-bsn-program/.

element of neoliberalism and its manifestation in American higher education. It does, however, have even more insidious roots buried in the individual. I have talked about the American higher education funding crisis from a structural level and how neoliberalism manifests there. Next, I will talk about how I see this manifesting in one particular area, Student Conduct, to illustrate the long shadows neoliberalism casts.

Student Conduct

When I worked in Student Conduct, which is the unit on higher education campuses that investigates and adjudicates alleged student violations of the institution's rules, I often dealt with both student and parent complaints regarding investigations. Students and their families believed that the amount of money they paid the institution – which has gone up in the last 40 years or so – in the forms of tuition, fees, and other monies makes them a customer. That entitles them to good service, in their view. Good service, in this case, means doing what the customer wants. We have a saying in the American hospitality industry: "the customer is always right," which can lead to some truly terrible customer behaviour. So, in this view of higher education as a consumer good, faculty members who fail to dispense a particular product – education – at the desired quality, in the desired manner, and without the student's desired outcome of a high grade have failed to render service. The message is: "we pay your salary. Therefore, your labour belongs to us. You are the customer service for the product we have purchased in the form of a diploma" or higher education credential of some kind. Staff members impeding the receipt of this credential were not looked upon favourably.

When I was a staff member within Student Conduct, I often faced these dilemmas or difficult interpersonal situations when dealing with what I interpreted as high-income students and their families. Grades were deserved, not earned. High grades were seen as a necessity for success in life; unsurprising for students who had to achieve at very high levels in secondary education in order to attend my academically elite R1 institution. Since I mostly worked with the academic integrity part of Conduct, I constantly ran into students and parents who thought that any shortcuts students took and policies they violated to get good grades were justified. The grade was the point, not the work required to attain it.

By contrast, I also ran into (what I interpreted as) students from lower-income backgrounds who were desperate to take any shortcut to get

the grade that meant they had achieved success. Sometimes the desire for high grades was tied up in wanting to go to graduate-level medical school to be a wealthy medical doctor, or graduate-level law school to be an affluent lawyer, or get a master's or Ph.D. in engineering to get a well-paying job, or get a good internship that would set them up for career success. Good grades were the only ticket to a well-paying profession and economic security rather than precarity.[46] Students were willing to take any measures necessary to get that grade.

One semester, there was an adjunct – contingent, non-tenured or tenure-line faculty member – who taught a required introductory Chemistry laboratory course. The course on the whole likely had hundreds if not a thousand or more students, since it was required for nearly all students getting science bachelor's degrees or pursuing admission to medical school. This faculty member decided that she would use plagiarism detection software in all of the lab reports students wrote for her classes. She then sent any that shared at least 20% of content to any other lab report to our Conduct office for referral, investigation, and adjudication. I personally reviewed 50 lab reports from her class alone in one academic year, and that is a conservative estimate. Most, as I recall, had at least some evidence of plagiarism, meaning that they shared an improbable amount of text with another student's lab report or a lab report widely available on the Internet.

Plagiarism

A common misconception about plagiarism is that it is done out of some deliberate desire to be malfeasant on the student's part. In this view, the student deliberately sets out to cheat, to shortcut their learning, and to take advantage of trusting teaching staff. They do not want to learn – they just want a good grade. It has been my experience that the desire for a good grade motivates student cheating. I rarely met students who deliberately set out to cheat. Again, the increasing costs of higher education and the state funding crisis falls on individual students and their families. College is very expensive! Faced with insufficient time due to, for example, working a job outside of school or family responsibilities

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46 Julia A. Wilson and Emily Chivers Yochim, *Mothering through Precarity: Women's Work and Digital Media* (Durham: Duke University Press, 2017), 20–21.

or taking too many courses at once in order to save money by graduating quickly, students get desperate and gamble. They bet that they will not get caught in working too closely together or borrowing language from someone else's paper or are utterly unaware of individual course guidelines on academic integrity or Conduct policies despite the institution's best efforts to inform. In the service of short-term goals like getting a good grade in the course, students make what I would call medium-term decisions rather than long-term decisions. Academic misconduct could lead to suspension, or temporary student removal from the institution. You cannot graduate and get your credential if you are suspended. The price for academic misconduct could be both dire and diametrically opposed to the student's best interest, but students commit academic misconduct anyway.

To students, grades matter immensely. Grades are the only valid measure of academic achievement, the quantifiable return on investment in higher education. Why? Neoliberalism. Grades are the only visible and legitimate metric of learning that has meaning because they can be understood quantifiably. A grade can be converted into a numerical measure of student learning and therefore student quality in the form of a Grade Point Average. As a result, students are forced into difficult decisions about how to spend their very scarce time in the service of financial security or, really, non-precarity in a neoliberal climate.[47] Alternately, students are stretched too thin in a neoliberal society in which every minute must be optimized into peak efficiency in order to be a productive subject.[48] In a constantly-busy, constantly "hustling" world, to use the vernacular, there is no time for careful consideration of outcomes, of pros and cons lists, of well-reasoned arguments for and against. There are only deadlines. Inflexible, rigid, deadlines. I always told students that they should ask their faculty for more time if they found themselves up against a tight deadline, because faculty would likely rather extend grace than deal with a complex, time-consuming conduct case as a result of student behaviour.

But, faculty themselves are pressured into being subject to neoliberalism. In a neoliberal policy climate in which all *their* work must be quantified and quantifiable in order to have value and prove their worth within the system, they too are not incentivized to spend time considering student misconduct. It is always easier to do nothing. Given the

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47 Epstein and McKinnon-Crowley, "(D)riven by Neoliberalism," 8, 10; Wilson and Chivers Yochim, *Mothering through Precarity*, 58–61.
48 Wilson and Chivers Yochim, "*Mothering through Precarity*," 86–89.

hassle of mustering evidence and reporting something to Conduct, and perhaps going through a trial-like, time-consuming process with an uncertain outcome, many faculty opted to do nothing. I heard stories from faculty and graduate student teachers, though, who preferred to handle plagiarism or other academic integrity cases themselves. They kept a private file for student misconduct, away from the prying eyes of the administration. While frowned upon officially since students could then, in theory, cheat with abandon in multiple different classes over time with no consequences, in practice it was simply easier for professors to implement their own small-scale conduct system, maybe giving students the opportunity to re-do certain plagiarized assignments rather than giving them an official referral and a file with Conduct. Perhaps the faculty wanted to remove their students from administrative surveillance. Actually, there was a process in place somewhere between these options called Faculty Dispositions, which did create a file with Conduct but kept the case between the faculty and the student. Some faculty used these, but they were not common.

The problem was, however, that preserving academic integrity took a lot of faculty time. The number of students referred for potential disciplinary action is not an administration-friendly, accreditation-usable metric. I could be wrong, but I doubt that number is shared on most promotion portfolios, especially since high numbers of referrals could be read as faculty encouraging plagiarism-friendly assignments or creating a climate of cheating in their class. Few faculty or staff participated as hearing officers (basically judges) in Conduct hearings, either, as service is of course seen as less valuable than research and teaching.

The Quantification of Education

That, too, is a problem with neoliberalism. Only work that can be quantified is valued for promotion, tenure, job security from semester to semester and year to year, et cetera.[49] I am not sure exactly how teaching evaluations are handled at readers' institutions, so I will speak on the United States context. While anyone who has the stomach to read their

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49 Though it is beyond the scope of this chapter, the world-wide fascination with the numerical rankings of higher education institutions can also be read as a product of the numerical justification for use of public funds dictated by neoliberalism. See also Collini, *Speaking of Universities*, 52–58.

teaching evaluations can tell you that any actually helpful material for improvement lives in the qualitative, written feedback, those comments are less valued than numerical scores. They are both less reportable and more likely to contain personal attacks or critiques. I am also bracketing the bias against women,[50] people of colour,[51] and non-native English speakers[52] in the U.S. evaluations. Anecdotally, I recently read student evaluations that said a decorated woman scientist recruited to the institution was unfamiliar with her area of expertise and therefore unequipped to teach their class. The student was upset that they had paid money for this perceived subpar educational experience.

Numerical teaching scores can provide documentable evidence of improvement over time in a way that sentences cannot. Relatedly, perfect numeric scores leave no opportunity for growth, only the potential to fall.[53] The numbers keep sole possession of their own explanatory power. Quality of instruction is reduced to scores and the number of students taught, making the efficient instructor the one who can most easily share their work with the greatest number of students. Quoting from an article in which faculty reflect on teaching:

> [Interacting with students] truly is the way that I learned how to teach because I get this feedback that, you know as a researcher, this kind of qualitative feedback is really different than just getting some numbers on a multiple choice, right, because you have no idea how they're really thinking. So, it's all of these moments in time over all the years that help me decide things that my colleagues could never know about our students if they don't do this.[54]

Improving teaching takes more than viewing quantitative scores.

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50 Kristina M. W. Mitchell and Jonathan Martin, "Gender Bias in Student Evaluations," *PS: Political Science & Politics* 51, no. 3 (2018): 652, https://doi.org/10.1017/S104909651800001X/.

51 Michael A. McPherson and R. Todd Jewell, "Leveling the Playing Field: Should Student Evaluation Scores Be Adjusted?" *Social Science Quarterly* 88, no. 3 (2007): 875, https://doi.org/10.1111/j.1540-6237.2007.00487.x/.

52 Daniel S. Hamermesh and Amy Parker, "Beauty in the Classroom: Instructors' Pulchritude and Putative Pedagogical Productivity," *Economics of Education Review* 24, no. 4 (2005): 373, https://doi.org/10.1016/j.econedurev.2004.07.013/.

53 Collini, *Speaking of Universities*, 48.

54 Tessa C. Andrews, Anna Jo J. Auerbach, and Emily F. Grant, "Exploring the Relationship between Teacher Knowledge and Active-Learning Implementation in Large College Biology Courses," *CBE Life Sciences Education* 18, no. 4 (2019): 12, https://doi.org/10.1187/cbe.19-01-0010/.

Outside of teaching, the only other products legible to the institution as evidence of worth within a neoliberal system are those that can be quantified.[55] These include number of articles submitted and in which journals of which type. Journal quality is measured by its selectivity, the number of submissions it receives versus the number rejected. Exclusivity becomes a cipher for worth. Student mentorship can only be reduced to publishing pieces with them or chairing thesis or dissertation committees. Number of shoulders provided to cry on is not CV-friendly. Giving detailed feedback for students is not an efficient use of time. All of these pressures were, of course, amplified during the COVID-19 pandemic when folks scrambled to move formerly in-person activities to an online modality.

Conclusion

In this chapter, I have discussed neoliberalism, the American higher education system, the funding crisis facing it, and reflected on how neoliberalism impacts individuals within this system, focusing on my work in Student Conduct and how neoliberalism harms faculty more broadly. So, what next? What to do in this dire situation where human expression and quality of teaching, research, living, et cetera is shrunk down to a number? American higher education could of course be free or offered at nominal costs to students and their families, which would really just shift the funding problem onto federal and state governments, bypassing the individual. I doubt this will happen. In the meantime, to reflect on what comes next, I offer some questions aimed at institutions. First, I wonder: Why do things always have to be better and working toward improvement? I suspect this, too, is due to neoliberal capitalism. A system of pure, unbridled, unobstructed growth requires change to thrive, heedless of consequence on people and the environment. What if institutions strove toward achieving contentment rather than competition?[56] That seems like a radical proposition, but perhaps one worth exploring.

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55 Stefan Collini makes a slightly different – though equally critical – argument about the reliance of metrics for scholarly success and productivity and uses the term "bibliometry," placing the blame for this movement on the need for academics to justify their expenditures of public funds rather than on neoliberalism. Collini, *What Are Universities For?*, 124–128. See also Collini, *Speaking of Universities*, 25–30.

56 Collini, *What Are Universities For?*, 17.

Given that large-scale change is unlikely – though we can hope – I will attempt to offer some individual-level solutions to structural problems. I do think that is the core of the neoliberal ethos, however: structural problems are presented as individual ones. This is still an inescapable discourse. I think this contributes to "hustle culture" in which all time is optimized and in which multiple business and self-improvement ventures must be operating at peak capacity to stave off precarity.[57] As individuals: value rest. It is OK to take breaks. It is OK not to strive all of the time and work tirelessly toward self-improvement and self-optimization. As academics, life is more than publishing and teaching scores. Speaking directly to those engaged in the academic enterprise: realize you are more than your work. You are more than your accomplishments that can be quantified and made legible to institutional eyes. The work you do to help people, the intangible moments, the mental click when you learn something new or read something that opens your eyes (or share that with your students)[58]: those are valuable and the essence of the scholarly enterprise. You and your work, no matter how it manifests on paper or in numbers, matter.

57 Wilson and Chivers Yochim, *Mothering through Precarity*, 68–72.
58 Collini, *What Are Universities For?*, 81.

Whither the Situationist University after Late Capitalism?

Jones Irwin

If the May '68 events in France are most often associated with the Situationist movement and with the specific figure of Guy Debord, the role which particular universities, as well as students and lecturers, played in this series of revolutionary events is often underestimated. At the University of Nanterre, where the revolt got started on the outskirts of Paris, some later to be well-known philosophers and sociologists were involved in the intellectual and activist ferment. While the roles which perpetual *enfant terrible* Henri Lefebvre and later seminal postmodernist Jean Baudrillard (Lefebvre's student of the time) played are quite well-known, it is less known that Jean-Francois Lyotard played a key role in developing a theoretical literature around the revolutionary and underground processes that led to May 1968. Given Lyotard's later international significance as a leading philosopher, this is a significant oversight. Moreover, the short texts which Lyotard developed at the time are also important as they very much foreground the question of the politics of the university, oftentimes in overt discussion with the Situationist texts of Debord and others. In this, the particular texts of this moment provide a key historical document for an understanding of the role of university in later twentieth century political life. In this, I will argue, they also have something significant to tell us about the politics of the university in 21st Century contemporary life.

In this paper, we will explore how Lyotard's conception of the university and its relation to the Situationist movement might be understood in a contemporary context of (very) late capitalism. Given the ultimate failure of the May '68 project, and the subsequent advent of the "Neoliberal University," we can ask – whither the Situationist university in the

context of late capitalism? Some specific reference in this paper will also be made to the Critical Pedagogy of the Brazilian educationalist, Paulo Freire, whose *Pedagogy of the Oppressed* text was published in 1968 and which references the events of the time in its first pages.[1]

Lyotard on May 1968 – Before, During and After

Here, I would like to concentrate on several short but seminal texts which Lyotard wrote in the 1960's and early 1970's which are notable for their explicit educational and pedagogical import but also for their key linking of education to wider political processes. Lyotard is unambiguously advocating what we might term a "re-politicising of education" and the concept and institution of the university is at the heart of this advocation. Lyotard's earliest text within the selection, written in 1962 (the aforementioned "Dead Letter")[2] develops from its focus on the Sorbonne a wider critical discourse on education and its relation to the public sphere. As stated above, with reference to the Sorbonne as an institution but also more generally, Lyotard speaks of the "failure of university discourse to embrace the desire for meaning," the questions "what meaning is there in existing?" or "what do we live for?" remaining unanswered. Lyotard seeks to distance an authentic conception of what he terms "culture" from the kind of reductionism which he depicts as everywhere destroying the basis of true, living cultural life. For Lyotard, the principle which he describes as ruling society is one where "the aim of all activity is to reach optimal equilibrium between cost and benefit."[3] The "human sciences," that is the application of a scientist paradigm to the humanities, merely brings "new refinement" to the application of this rule, which Lyotard refers to as a system of "unculture" or anti-culture.[4]

He is similarly scathing of the institutions of political life in France and even of the institution or practice of "literature." In contrast, he calls for a resurgence of authentic "cultural desire": "cultural desire is the desire to put an end to the exile of meaning as external to activities.

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1   See Jones Irwin, *Paulo Freire's Philosophy of Education: Origins, Developments, Impacts and Legacies*, Bloomsbury Collections (New York: Continuum, 2012).
2   See Jean-François Lyotard, *Political Writings*, trans. Bill Readings and Kevin Paul Geiman (London: UCL Press, 1993).
3   Ibid., 38.
4   Ibid., 38.

It is at the same time the desire to put an end to the exile of activities as estranged from their sense. Its instrument cannot be the university, which dwells in this very exile, and is the product of it."[5]

While the university is and must remain insensitive to this desire (as the problem here would seem to be *a priori* in terms of the university's very *raison d"être* for Lyotard), he ends the essay with a remarkably prescient sense that this desire remains alive in the wider society, however stultified: "now we must look for the acts in which this desire is already silently present; we must hear in these acts the call of a sense, a call that has no truck with the operational world but that is nevertheless utterly contemporary; we must make the call ring out, at the cost of transgressing (destroying) the apparatuses that stifle it [here, the university no doubt]; we must find the ways to make it ring out, the opportunities and the means. That is what it means to take culture literally."[6]

This is certainly an ambitious call and a scathing critique of the contemporary culture and system of education. It also has a resonance for today when we might argue that, in 2022, many similar aspects of the 1968 system have re-emerged with education often considered more of a market commodity than a cultural or philosophical domain.

This first Lyotard text is written in 1962. In 1964, the University of Paris at Nanterre is established, in the working-class suburbs, attracting a new generation of thinkers, far removed from the more ivory tower leftist theorising of Althusser and his students (Derrida, Rancière, Badiou, Balibar) in the *Ecole Normale Supériere*. While the master discipline of abstract philosophy remained dominant at the ENS, in Nanterre the relatively new discipline of sociology started to attract iconoclastic French outsider intellectuals to teach, most notably, the neo-Marxist Henri Lefebvre. Lefebvre was to be a key figure in the build up to '68, an extraordinary thinker and activist, a provocative agent whose works were ingested by the Situationists and spat back out in the slogans of the era; Guy Debord and Lefebvre were for a (crucial) phase, collaborators (although as was always the case with Debord, there was to be a major falling out and subsequent, vehement disavowal).[7] Lyotard, in his place as a philosophy lecturer in Nanterre, was thus faced with a very different situation from his fellow philosophers at the ENS: the area of Nanterre

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5   Ibid., 39.
6   Ibid., 40.
7   Guy Debord, *Comments on the Society of the Spectacle*, trans. Malcolm Imrie (London: Verso, 1990).

was itself volatile and the student constituency less traditionalist. It is not inaccurate to say that in terms of the rallying cry which completed the "Dead Letter" text, that Nanterre was a place where the kind of "cultural desire" which Lyotard describes was indeed taken more "literally," in the raw.

It is precisely in this specific context then that we can best understand the other three texts from the period, all written with explicit mention of Nanterre as a microcosmic context but with a wider eye to the macrocosmic dimensions of socio-cultural and political upheaval in the France of the time. "Preamble to a Charter," written in 1968, "Nanterre, Here, Now," written in 1970, display a transition from a more optimistic or even utopian perspective on '68 and its implications for political and social processes, to a more realistic (or some might say pessimistic) tone.[8] My analysis of the texts is completed by the piece "March 23," written in and around 1971/72, which looks at Lyotard's involvement in the March 22 political movement begun in Nanterre in 1968.

Already in the beginning of the "Preamble to a Charter" essay, a different interpretation of the possibilities of the university is apparent; "our task will have to be that of displacing [détourner] the entire institution of the university as fully as possible from the functions to which it is restricted by both the ruling class and its own deeply internalised repressions, in order to turn it into a place for working out the means of the critical understanding and expression of reality."[9] Two things are noticeable here; the concept of *détourner* or displacement is an explicit borrowing from the work of the Situationist leader, Guy Debord, and his text *The Society of the Spectacle*. This indicates Lyotard's cultural and political affiliation to the wider May '68 movement. But the semantics of the term also indicate a profound shift from 1962 – whereas then the university was seen as intrinsically complicit beyond redemption in the politics of capitalism, now the university has the capacity to turn, to become displaced, into a very different kind of place or space; an emancipatory place "where [a] critical understanding and expression of reality might be authentically forged."[10]

However, Lyotard also warns against utopianism or political naiveté here; "the university of course will not be revolutionary; whatever we may be able to do here can and will be recuperated by the powers that

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8   All in Lyotard, *Political Writings*.
9   Ibid., 41.
10   Ibid., 41.

be, until society as a whole is reconstructed differently."[11] The May '68 students' movement has brought a new understanding of what Lyotard terms "cultural alienation" to the fore. In traditional Marxist terms, it has foregrounded the superstructural elements of the capitalist oppression. But this must be accompanied by a continued and simultaneous emphasis on the base or economic oppression as not (in Althusser's phrase) the determining factor "in the last instance" but one might say as a co-determining instance (there is a clear sense here that Lyotard is emphasising a "cultural-social-economic" Marxism very close to the Lefebvrian model put forward in texts such as the 3 volume *Critique of Everyday Life*, written almost simultaneously to these Lyotardian texts).[12]

In the text "Nanterre, Here, Now," a text co-written with students from Nanterre, Lyotard describes an institutional situation which is highly volatile; police on campus beating students, students attacking police and lecturers, destruction of lecture theatres and property, difficult relations between students and neighbouring immigrant communities, and intra-student violence between Maoist, communist and anti-leftist groups. The situation described is intolerable and Lyotard doesn't shirk from apportioning responsibility on all sides; he is scathing about Paul Riceour's reformism (a "nonpolitics" in a pejorative sense)[13] as head of the university teachers' management but he is also scathing of the tendency to hide between the various "symbolic fathers; whether the Father be Marx, Lenin, Trotsky or Mao; "thus the question of power among our own ranks is always stifled, always displaced into the question of the power facing us..."[14]

His overall reading of the possibilities for change within the university and through the university seem to have diminished in the two years since 1968. In almost Freirean and *Pedagogy of the Oppressed*[15] terms, he denounces the systemic problem facing pedagogy at the university: "functions of the teacher: to consume cultural contents in order to produce cultural contents that can be consumed by the students; to produce saleable students (consumable labour force)...What the teachers are completely unconscious of, though the students sometimes perceive

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11 Ibid., 44.
12 See Henri Lefebvre, *Critique of Everyday Life* (London: Verso, 2008).
13 Lyotard, *Political Writings*, 55.
14 Ibid., 49.
15 Paulo Freire, *Pedagogy of the Oppressed*, New revised edition, Penguin Education (Harmondsworth: Penguin, 1996).

it, is that the only value that governs the real functioning of the teaching establishments is the same that operates openly at the surface of society: produce and consume no matter what, in ever-increasing quantity."[16] What is required now is not simply a "reversal" of class power (where the oppressed become the oppressor) which he associates with the Marxism of the last century[17], not a "seizure of power … but the destruction of power."[18] This calls for a move beyond pedagogy *per se* Lyotard declares to a space of apedagogy: "I call it apedagogy because all pedagogy participates in this repression, including that which is implied in the internal and external relations of the 'political' organisations…"[19]

The final text of the four that I will look at in this section is Lyotard's text "March 23," subtitled "an unpublished introduction to an unfinished book on the movement of March 22." The Movement of March 22 referred to a specific radical leftist group, of which Lyotard was a part, which had been a key instigator of the May '68 events in Paris. On March 22, 1968, 150 students at the University of Paris at Nanterre, protesting against the arrest of members of an Anti-Vietnam movement, occupied the university's administration offices. In response, the French government closed courses at the university and this action in turn sparked further protests on the part of students, which then inflamed the whole of France. By mid-May 1968, ten million workers were on strike and France was at a standstill. Lyotard refers to this movement as "having got him out of the impasse between militant delirium and scepticism."[20] As with Lyotard's other texts, "March 23" seeks to simultaneously critique "alienated life as a whole," while also looking to a viable alternative: "what is this other of capitalist bureaucratic reality?"[21] Written after the events, when all the euphoria was over, Lyotard must also now take account of the "failure" of the movement, what Debord later states as the realisation that "having nowhere overthrown the existing organisation of the society," the political and educational problems have become more acute ("the spectacle thus continued to gather strength; that is, to spread to the furthest limit on all sides, while increasing its density in the centre")[22]. Lyotard in fact explicitly cites Debord and Situationism here

16   Lyotard, *Political Writings*, 57.
17   Ibid., 38.
18   Ibid., 59.
19   Ibid., 59.
20   Ibid., 60.
21   Ibid., 61.
22   Debord, *Comments on the Society of the Spectacle*, 2.

as a key influence: "the latent problematic of the March 22 movement was following and alongside that of Situationism."[23] Paradigmatic in this context is the "critique of representation." For Lyotard, as for Debord, the critique of representation is a critique of the alienating effects of capitalist society. Up to '68, according to Lyotard, this critique had mostly taken place in the arts, "the autocritiques carried out over the past century in painting, music, literature etc." But, along with Situationism, and driven by a desire to break down the "barriers between art and life," the March 22 movement sought to extend this aesthetic critique of representation to a political critique of representation, "the practical extension of this critique to the political sphere."[24] It is this which "best characterises the March 22 movement" (as also Situationism) and also perhaps explains its success in making a highly esoteric aesthetic both accessible and convincing to the "masses." If, as Stuart Hall has observed, the masses are often viewed by political groups (however democratic) "like an irritant, a point that you have to pass through"[25] it seems clear that in May 1968, this alienation (or "separation") of the masses is breached (however temporarily).

For Lyotard, it is precisely in maintaining or evolving this insight that the March 22 Movement can continue to be relevant: "if the May '68 movement is going to have repercussions it is insofar as it managed to extend critique to many forms of representation."[26] And this also bears on the specific importance of the political sphere, above all else. "If it is true that politics is not just one sphere among others but the sphere in which all spheres are represented and in which social activity is distributed among them; then the critique of politics is not parallel but 'transversal' to the critiques carried out in the various spheres in question; extending their critique of representation to society itself."[27] Here, Lyotard eschews the dominance of what he terms "structural linguistics" as a mode of analysis, referring perhaps surprisingly to the anthropology of Marcel Mauss, who had also been a strong influence on the

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23 Lyotard, *Political Writings*, 61.
24 Ibid., 61.
25 Stuart Hall, "On Postmodernism and Articulation: An Interview with Stuart Hall," in *Stuart Hall: Critical Dialogue in Cultural Studies*, ed. David Morley and Kuan-Hsing Chen (London: Routledge, 1996), 141.
26 Lyotard, *Political Writings*, 61.
27 Ibid., 61.

Lettrists and early Debord.[28] For Mauss, there is "an excess of energy that symbolic exchange can never regulate." Lyotard seeks to apply this anthropological logic to May '68: "a 'disorder' that at times shakes the capitalist system; and produces events in it that are initially unexchangeable."[29] This also allows Lyotard to invoke a "theory of desire… the system is analogous to a 'libidinal system.'"[30] May '68 was then an evolution of the politics of desire, of political desire itself, no longer willing to remain subsumed under the repressive mechanisms of the "society of the spectacle." It is here, in the conclusion to the "March 23" text, that we can see the connections to Lyotard's later work, and especially *The Postmodern Condition*. While, along with the Situationists, Lyotard still seeks to maintain a critique of ideology, this critique must in effect undergo a "postmodern turn." The old base-superstructure model of economism, still being employed by the more orthodox Althusser in '68, must be superseded by analysis of the superstructure which no longer sees it as subordinate to the base, but which also emphasises not simply culture, but the politics of culture, and crucially, the politics of desire.[31]

In conclusion to an analysis of the early texts, then, these four essays, written in the period between 1962 and the early 1970's, are crucial statements of Lyotard's politics of educational discourse and practice, in the years leading up to '68, the period during it, and the aftermath. If, as is often claimed, 1968 represents the key crisis in the evolution of a political discourse, leading to a disenchantment amongst leftist intellectuals which will eventually culminate in the rise and rise of free market New Right ideology, then Lyotard's place at the epicentre of this revolutionary moment furnishes us with a fascinating (albeit radically biased) view of

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28 On this point, cf. Andy Merrifield, *Guy Debord*, Critical Lives (London: Reaktion Books, 2005). Merrifield shows the strong influence of Mauss' notion of "potlatch" on the Lettrists (LI). This was also a seminal idea for Georges Bataille and Roger Caillios, amongst other French intellectuals. "The LI pioneered their own journal *Potlatch*, named after the great feasts of Northwestern native American tribes; in them, chiefs actually gave food, drink and wealth away; all surpluses were wilfully destroyed; potlatches forbade bargaining, affirmed gifts, defied exchange and were absolute negations of private property and capitalist values." Merrifield, 25.

29 Lyotard, *Political Writings*, 64.

30 Ibid., 64.

31 After '68, and Lyotard's move from Nanterre to the University of Vincennes, the relationship between Lyotard and Gilles Deleuze becomes very important, for the analysis of both thinkers' work. For a fascinating jointly written text, in 1975 and *contra* Jacques Lacan's influence at Vincennes, cf. Lyotard and Deleuze, "Concerning the Vincennes Psychoanalysis Department" in Lyotard, *Political Writings*. "It is difficult to imagine how a university department could subordinate itself to an organisation of this kind.…all terrorism is accompanied by purifications; unconscious washing does not seem any less terrible and authoritarian than brainwashing." Lyotard, 69.

what took place, a seminal perspective on the university and its radical possibilities for transformation of the public sphere. But what precise sense can we make of this political and emancipatory vision of the university today?

Whither the Situationist University Now?

When the Brazilian philosopher Paulo Freire tells us that "education is never neutral," he wants us as educators, and as artists, to realise that our work is always situated, that it always takes a stand (even if, or especially if, we deny this fact). Education and art are inherently political, even if we often run away from this responsibility and seek to hide behind excuses or alibis. No pedagogy is ever innocent – Freire provokes us with these words, in 1968, in his text *Pedagogy of the Oppressed*. One of the posters of '68 stated that "the lessons will not be forgotten in '69!"[32] But what did such a "not forgetting" mean in 1969 and what does it mean in 2022?

In his text *Pedagogy of Hope* from 1992, which is sub-titled *Revisiting Pedagogy of the Oppressed*, Freire challenges the conception of emancipation which often underpins a more naïve form of liberatory pedagogy.[33] Freire quotes a letter: "an excellent letter from a group of workers in São Paulo; 'Paul' they said, 'keep writing – but next time lay it on a little thicker when you come to those scholarly types that come to visit as if they had revolutionary truth by the tail. You know, the ones that come looking for us to teach us that we're oppressed and exploited and to tell us what to do.'"[34]

Instead of what amounts to this reactive and suffocating form of pseudo-liberating education which puts teachers in control of passive students, Freire seeks a more authentically liberating form of problem-posing education. At the heart of the 1968 text is the specific critique of the university system which was also such a catalyst for the '68 movements in France (the latter deriving from an original critique of the university by student movements and the philosophers Henri Lefebvre and Jean-Francois Lyotard at Nanterre). Freire describes in the

32 Johan Kugelberg and Philippe Vermès, *La Beauté Est Dans La Rue. Beauty Is In The Street. A Visual Record of the May '68 Paris Uprising* (London: Four Corners Books, 2011), 10.

33 See Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed*, trans. Robert Barr (London: Continuum, 1992); Irwin, *Paulo Freire's Philosophy of Education*.

34 Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed*, 32.

aforementioned footnote the affinity between his own philosophy of education and politics and the contemporary movement of the '68 students at Nanterre and beyond: "[the '68 students] as they place consumer civilisation in judgement, denounce all types of bureaucracy, demand the transformation of the universities [changing the rigid structure of the teacher-student relationship] and placing that relationship within the context of reality."[35]

This brings Freire's work very much into connection with that of Lefebvre and Lyotard, both figures of the French Far-Left at this point (although Lyotard's later work will drift into a different direction). For Freire, such radical thinking and "praxis" (involving a constant reviewing and renewal of the loop between theory and practice) involves both continuity and discontinuity with a Leftist (and Marxist) tradition. As Freire notes, "If you were to ask me, 'are you attempting to put into practice the concepts you described in your book [*Pedagogy of the Oppressed*]?,' of course I am, but in a manner in keeping with the times."[36] This "in keeping with the times" can lead Freire's pedagogy and politics into some unexpected and heterodox spaces from a more orthodox Marxist perspective. Here, we can draw on a key distinction between "dogmatic" and "nondogmatic" forms of Marxism, first employed by the Belgrade and Zagreb based Praxis school of philosophy[37] to distinguish between more humanist and scientific forms of Marxism. Freire is undoubtedly, as with Debord, on the side of the "nondogmatic."

Certainly, if we look at Freire's later work in philosophy of education and his revisiting of his earlier topics, we can see a certain change of emphasis. In Freire's "reliving" and "rethinking" Pedagogy of the Oppressed in the wake of the failure of '68 and after (most notable in his 1992 text *Pedagogy of Hope*), there is a strong reemphasis on lived experience as an existential criterion. If this was already the case in the earlier *Pedagogy*, the pedagogy and politics dovetailed with personal and existential concerns, it becomes more of an emphasis in the later work. Not coincidentally, it is accompanied by a more radical critique of the authority of the teacher and of the "emancipatory" educator/hidden power,

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35 Ibid., 25.

36 Paulo Freire and Carlos Alberto Torres, "Twenty Years After Pedagogy of the Oppressed: Paulo Freire in Conversation with Carlos Alberto Torres," in *Politics of Liberation: Paths from Freire*, ed. Colin Lankshear and Peter McLaren (London: Routledge, 1994), 106.

37 Helena Motoh, "'Punk Is a Symptom': Intersections of Philosophy and Alternative Culture in the 80's Slovenia," *Synthesis Philosophica* 27, no. 1 (2012): 285–96.

which we saw outlined earlier in the critique of paternalism ("stop telling us we are oppressed").

This is a clear thematic in the '68 movements which both Debord and Freire anticipated and influenced. For example, in the famous poster "Participation, all the better to eat you with my children."[38] The dangers are clear here of a pseudo-revolution, a re-commodification of the potential of the revolution in false dawns and overly-hierarchical leadership, failing to see the self-emancipatory potential of the student or of the individual agent.

We see a similar theme emerge in Debord's later work.[39] In his earlier texts, Debord had spoken of a very real potential for the realisation of revolution. He speaks to the revolutionary project of a classless society which implies the withering away of the social measurement of time in favour of a "*federation of independent times*" (Thesis 163) and the "*temporal realisation of authentic communism*." But in the later work, the tonality has become somewhat more pessimistic and even satirical. "It is certainly not the spectacle's destiny to end up as enlightened despotism."[40] At times in this later text, there is a near-sense that Debord has started to become fatalistic about the spectacularity of the Spectacle – "This form of barbaric grandeur."[41] Here, we might see a distinction between Freire and the later Debord which carries significance. However self-critical and undermining of naïve liberatory education Freire's work becomes, under the complex conditions of late capitalism, his work never becomes attracted by fatalism. If there is a danger that "participation" may only eat us up, there is still always and ever the real possibility of action which can transform our world, whether in education or in politics or both. "In action, we have the source of our beauty."[42] Fatalism only leads to Freire's much repeated warning that "the oppressed becomes the oppressor."[43] At times, the later Debord's work succumbs to such revolutionary pessimism under the conditions of late capitalism. Freire maintains the tension which instead keeps the possibility of revolution alive. It is thus Freire who maintains the possibilities of what we have termed "nondogmatic Marxism" even under the most difficult contemporary conditions.

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38   Kugelberg and Vermès, *La Beauté Est Dans La Rue*, 102.
39   Debord, *Comments on the Society of the Spectacle*.
40   Ibid., 62.
41   Ibid., 100.
42   Kugelberg and Vermès, *La Beauté Est Dans La Rue*, 103.
43   Freire, *Pedagogy of the Oppressed*, 32.

Nonetheless, the Situationist texts of Debord in the early to late 1960s (culminating in the *Society of the Spectacle*) point towards the maintenance of this enigmatic Leftist (anti-capitalist) critique of ideology, even while they fail to provide the inspiration to maintain this vision throughout the chronology of his own work. In this, we might see Freire's later work as the true inheritor of the early Situationist legacy to the Left-wing tradition of politics and pedagogy and thus as the true inheritor of the May '68 counter-culture. In this inheritance, we can also perhaps see the contours of a new architecture of the university (ethical and aesthetic) emerge, giving us the complex materials for a new intellectual and political task into the near-future.

The University and the New Problem(s) of Counsel[*]

Cláudio Alexandre S. Carvalho

Attending to how academic and scientific advice is integrated with decision-making and part of the forming of public opinion, in the present article, I delineate the terms of the reconfiguration of the problem of counsel. 1) I will briefly start by sketching the original configuration of the early modern problem of counsel, considering how it accompanies the differentiation of the modern university. We will see how melancholy, as a complex of impotence or inhibition, is intrinsically related to the scholar's counsel. Then, 2) departing from Niklas Luhmann's remarks on the formation of the university's medium and forms, I address the ambivalences surrounding the forms of scientific advice and counsel, namely the recurring complex of inhibition affecting scholars. 3) From there, considering the function of academic prestige, I delineate the evolution of the positioning of academic organizations and scholars in delivering counsel and scientific advice. 4) Finally, I outline the contemporary conditions for soliciting and providing scientific advice on public matters, highlighting the COVID-19 crisis. I will conclude by focusing on the imposition of automatized forms of advice and their risks to the social ecology.

Early Modern Formulation of the Problem of Counsel

Classical philosophy praised good counsel as the product of a charitable deliberation oriented by the common good of the whole.[1] Counsel relates to practical reasoning in contingent situations, which, even remaining in the domain of opinion, is acquired by experience, particularly in the government of the household or the state. As such, the art of counsel provides no certain solution to a problem but may assist the seeker of counsel in achieving a better assessment or outlook of a problem, thus favoring a better decision or the improvement of one's conduct.[2] Therefore, it contrasts with an imperative logic and cannot be conformed to the "*genus deliberatium*" of rhetoric. According to this view, which remains valid, by definition, there can be no stereotyped solution to the problems assessed by counsel. Latent was the contrast, later established by Montesquieu, between the register of *consilia*, as the process of prudent deliberation that proceeds by the assessment of conditions of uncertainty, and *praecepta*, consisting in the various ways of actualizing general commands from religious dogma or legal institutes.

Appearing in Hellenist culture, the first formulations of the problem of counsel entailed a double question: who can advise the prince and how can that preceptor display *parrhesia*, i.e., speak frankly?[3] As the background to these, a third question should be added: how to guarantee effective listening to counsel?

The institution of counsel was an object of intense legal regulation in the transition to modern society. The provider of counsel had to conquer the space to operate in freedom, exerting his observations unconstrained by the prospect of the whims of the ruler. The problem of counsel arises in the context of advice of the ruling class, referring to the spectrum of harsh punishment for bad counsel, as a consequence of the views and counsels which were not accepted by the ruler and those which were followed but had nefarious consequences. The counselors tended to underline (and in some sense explore) the gap between a counsel and

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1   In the *Nicomachean Ethics* (6.5, 1140a:23–1140b:29), Aristotle distinguishes such form of deliberation from science, based on invariable principles, and art/technē, that concerns an activity guided by external ends.

2   As part of the Hellenistic model of subjectivation, Galen's *On the Passions and Errors of the Soul* is a *locus classicus* of the duties of seeker and provider of counsel.

3   Michel Foucault provided a good summary of the importance of frankness in Greco-Roman culture, cf. *The Hermeneutics of the Subject. Lectures at the College de France 1981-1982*, trans. Graham Burchell (New York: Picador, 2006), 396–339.

the imponderables of its application, i.e., the interpretation and implementation of the counsel in practice.

Machiavelli (*Prince*, chaps. 22–23) considered the conditions of the Prince's resort to counselors and how their license to speak frankly, without fear of immediate or future punishment, might be in his best interest. A century later, in his "Of Counsel" (1625), Bacon proposed that the resort to the counsel of well-established experts on specific matters leaves the position of the ruler unblemished. It contrasts both with the resort to counseling on general matters or those that, due to his own formation or experience the ruler is expected to dominate. Resorting to counsel on those matters would imply the ruler's demise from his own prerogatives. On the other hand, resort to counselors without a well-established reputation and recognized independence of the domain where they must deliberate would raise suspicion that the ruler has fallen prey to flattery or vested interests. Therefore, the problem of counsel was not limited to the discursive conditions of the provider of counsel, decisive to conquer a space of free deliberation. It extends to the formalization of the occasions where counsel is required, which may reinforce or undermine political authority.

The problem of counsel constitutes the background of the composition of Thomas More's *Utopia* (1516). Its first book may be read as a way to suggest the tension between More's servile use of his capacities and knowledge at the service of Henry VIII, and the observations issued by Raphael Hythloday, a learned outsider who displays a disinhibited speech unwilling to serve the interests of power. More's articulation of a counsel exempted from the varnish of court's deference and the latent menace of the monarch's reception of its perspectives is only possible through the adoption of that fictive *alter ego* which conveys the vision of an ordered society where, ultimately, the problem of counsel would be dissolved by the integration of morally and epistemically virtuous scholars.

J. H. Hexter presented the initial formulation of the "problem of counsel," highlighting how More's formulation diverges from the humanist tendency to center its focus on personal character as its sole cause,[4] as it occurs in Erasmus' *Complaint of Peace* (1517). Instead, *Utopia* attends to the structural and systematic conditions exerting resistance to scholar's counsel, both echoing and revising the psychagogic conception that underlie the *specula principum* tradition.[5]

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4   See J. H. Hexter, *More's* Utopia: *The Biography of an Idea* (Princeton: Princeton University Press, 1952), 103–115.

5   Ibid., 110–111.

In order to maintain his integrity, Hythloday refuses both the submission to a kind of deflationary form of counsel that tries to influence the king, princes, or clergy members instead of deliberating according to his own principles and convictions,[6] and the possibility of entering himself in politics.[7] He is therefore committed to deliberating and presenting his advice unblemished by the systemic pressures of corruption and flattery. Political power had military or hereditary grounding, and while lacking in formal education, rulers were accustomed to obsequious flattery from an early age, and while lacking in formal education, rulers were accustomed to obsequious flattery from an early age, developing a form of practical intelligence that used those same resources to influence their superiors, enabling the access or maintenance of privileges. Matters of principle or the population's welfare were rarely accounted as crucial in deliberation. More is keenly aware of the improbability of rulers accepting and receiving good advice. Under such conditions, the effective granting and receiving of counsel would be greatly hindered, if not impossible.[8]

The problem of counsel is directly related to the differentiation of modern university, initially implying the application of a kind of reasoning grounded on a concept of universal truth, alternative to religious and parochial forms of knowledge and *praecepta*.

In his exposition of the "miseries of the scholars,"[9] Robert Burton exhibits the complex evolution of the "problem of counsel," a transition

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6   According to which, "you must strive and struggle as best you can to handle everything tactfully – and thus what you cannot turn to good, you may at least make as little bad as possible." Thomas More, *Utopia*, ed. George M. Logan, trans. Robert M. Adams (Cambridge: Cambridge University Press, 2016), 37. This will be the position adopted in Baldassare Castiglione's *Il Cortegiano* (IV:7–10) published in 1528. Instead of convincing the ruler by reasoning and arguments, he commends the counselor to influence him through his charms.

7   In accordance to Plato (*Rep.* 496c-e), who, following his turbulent relation with the tyrants of Syracuse, allowed that possibility in the ideal city governed by philosophers (*Rep.* 517b–520d).

8   It, of course, becomes possible in a new kind of social organization such as the republic of utopia, whose officials were scholars "who from childhood have given evidence of excellent character, unusual intelligence and devotion to learning." More, *Utopia*, 67.

9   Inserted on the section "Love of learning, study in excess, with a digression, of the misery of scholars, and why the Muses are melancholy" of the *Anatomy of Melancholy* (I.2.3.15), after a brief presentation of the classical topos of *literati* melancholy, the digression advances for an overwhelming diagnosis of the institutional causes of scholars' conditions of precariousness and servitude. Parallel to the scarce security offered by patronage, the transformation of the university is at the center of his analysis. In a few decades, under new statutes imposed by royal power, the university abandons a *modus vivendi* whose principles were similar to those of the monastic organizations, adapting itself to receive and fulfill the demands of an overwhelming number of students, mostly members Gentry and English aristocracy, in search of a certification that would allow them access careers at court. This will result in a drastic easing of the

from the risk of counsel to the anxiety of counsel, that is to say, an anxiety of influence.[10] In the name of the improvement of the ruling, which gradually became captive to legal and military experts of integrating the "Privy Council," Burton is no longer reluctant to provide his knowledge in the service of power, fearful of its probable distortion. On the contrary, he resents the exclusion from the pedagogic instruction and Counseling of the prince, which he idealizes as a past institution.

Since the later Middle Ages, counsel has been a fundamental institution of government, assisting decision-making. As a consulting service, in early modern Europe, it was a frequent way to sidestep council or parliamentary procedures of validation of a decision. Instrumental use of counsel has been common throughout history, sometimes conditioning or directing it to reject adversarial solutions while validating concomitant ones. In this case, since by definition the solutions sought for in counsel are never stereotyped or pregiven (as in the case of subjunctive application of *praecepta* to a current issue),[11] involving the exposition of perspectives according to one's values and goals, the receiver of counsel may attempt to bend the assessment or deliberation of the counselor to favor his interests.[12] Another form of instrumentalization, inherited from the classical problem of counsel, is its use in order to postpone or delay decisions, for instance waiting that the issue at hand dissolves itself or is no longer under public scrutiny. These tendencies to corrupt or instrumentalize counsel in matters of public interest reveal the space and time that individual counselors and academic institutions had to secure to provide free and independent assessment and recommendations.

In modern society, counsel and advice have become pervasive in almost all domains of personal and organizational functioning. They

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requirements for the cultivation of humanist values. "Universities can give degrees. . . but he nor they, nor all the world, can give learning, make Philosophers, Artists, Orators, Poets." Robert Burton, *The Anatomy of Melancholy*…, ed. Thomas C. Faulkner, Nicolas K. Kiessling, and Rhonda L. Blair, 6 vols. (Oxford: Clarendon Press, 1989–2000), vol. 1: 307.

10   This transition implied a re-examination of the vocation and presumption of political advisors that intensifies in the late sixteenth-century. See Sue W. Farquhar, "Irony and the Ethics of Self-Portraiture in Montaigne's De la praesumption," *The Sixteenth Century Journal* 26, no. 4 (Winter 1995): 792–798.

11   Drawing on the speech acts theory, Michael Niehaus provided an extensive account of this and other structural aspects of the Counseling relation. See his "Logik des Ratgebens. Eine Standardversion zur Beschreibung eines Typs von Sprechaktsequenzen," in *Rat geben. Zu Theorie und Analyse des Beratungshandelns*, ed. Michael Niehaus and Wim Peeters (Bielefeld: Transcript, 2014).

12   These have analogous forms in individual resort to counsel, particularly when one wants to defer a resolution or is reluctant in assuming a decision and seeks external validation.

have subdivided into various specialties, targeting specific problems already emerging in the system of reference, i.e., in the person, institution, or organization that demands advice or guidance. Counseling is, by definition, subsidiary as support for a decision that ultimately must be taken by the one asking for advice. It does not aim, at least primarily, for the transformation of the system of reference, but for its assistance.

Qualified advice must break with even the most surreptitious forms of conflict of interest, which include conscious and unconscious forms, typically those related to economic or social capital and those originating in affective "reasons" or mechanisms. Therefore, despite the mutual reinforcement of trust on which it depends, more familiarity is needed to ensure its quality, thwarting the mutual clarification of a problem. They may, for instance, leave counsel prey to psychic mechanisms such as projective identification with the other, aiming at his/her manipulation or control. As sustained by Thomas Macho, excessive intimacy with the person asking for counsel may ultimately require the multiplication of observers and counselors: "the history of Counseling can be interpreted as an interaction between the consultant's internal and external positioning. The need for confidentiality, intimacy and continuity of consultation relationships increasingly creates a better integration of counselors in the system they advise, which at some point means that counselors know about this system only as much as its own members do. They lose the feeling for the 'blind spots,' the 'sixth sense' that characterizes those outsiders who look at a given context from an unfamiliar and strange perspective. Suddenly, they need advice as much as their clients do – and in turn, they need to hire 'advisors.'"[13]

As in early modern Europe, in matters of public interest, in contemporary society the internal relation between consultee and the "client" is object of public scrutiny as a way to prevent or at least denounce the instrumentalization of counsel, particularly in scientific advice.[14] Democratic governments construct the accountability of their decisions in close

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13   Thomas Macho, "Zur Ideengeschichte der Beratung. Eine Einführung," in *Das Buch von Rat und Tat*, ed. Gerd Prechtel (München: Diedrichs, 1999), 24.

14   On the risks of instrumentalization of scientific advice, and the concomitant depersonalization of decision-making in contemporary society. See Yaron Ezrahi, *The Descent of Icarus: Science and the Transformation of Contemporary Democracy* (Cambridge, Massachusetts: Harvard University Press, 1990), 263ff, and Matthijs Hisschemöller, "Participation as knowledge production and the limits of Democracy," in *Democratization of Expertise? Exploring Novel Forms of Scientific Advice in Political Decision-Making*, ed. Sabine Maasen and Peter Weingart (Dordrecht: Springer, 2005), 189–194.

articulation with the bodies of consultation, providing arguments and evidence.[15] Along with its higher demand, in times of crisis or emergency, counsel becomes the object of higher scrutiny, although it is also in these times that its adoption tends to reinforce the immunization against its critics. The recommendations that inform the formal decision-makers are evaluated not only by considering the subject matter but also by assessing the prestige of the counselor.[16] Even when a counselor or advisor has formal certifications and credentials to assess a particular problem, recognized experience in the field as well as political and economic independence are determinant aspects of public perception and judgment.

In order to understand how the contemporary organization of the university comes to frame the demand for and resort to academic counsel and scientific advice, I will now propose a detour through Luhmann's conceptualization of the university.

Luhmann's Views on Academic Reform and Scholar's Melancholy

Parallel to his major writings on the systems of science and education, and part of his academic responsibilities, in a manuscript dated from 1979 but only recently published,[17] enticingly titled "Zu viel Ordnung und Melancholie" [Too much order and Melancholy], Niklas Luhmann reflected on the effects of excessive regulation on the universities' differentiation, extracting some consequences regarding their functioning and positioning in modern society. There, the German scholar touches on problems explored in his coetaneous work on the system of education[18]

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15   On the complexities and problems surrounding these processes, see the work of Sheila Jasanoff: *The Fifth Branch: Science Advisers as Policy Makers* (Cambridge, Massachusetts: Harvard University Press, 1990), and *Science and Public Reason* (London and New York: Routledge, 2012).

16   In that sense, Stephen Hilgartner observed that "[m]ost of the drama surrounding science advice consists of efforts to expose, disclaim, or disavow putative interests, as competing performers present conflicting assessments of the character of the advisor. Judgments about the credibility of advice thus cannot be separated from moral judgments about the people and institutions that produce it." *Science on Stage: Expert Advice as Public Drama* (Stanford University Press: Stanford, CA, 2000), 15.

17   Niklas Luhmann, "Zu viel Ordnung und Melancholie. Organisatorische und personalrechtliche Instrumente in der Hochschulgesetzgebung (unveröffentlichtes Manuskript)," in *Schriften zur Organisation*, vol. 4 – Reform und Beratung, ed. Ernst Lukas and Veronika Tacke (Wiesbaden: Springer, 2020 [1979]).

18   Niklas Luhmann and Karl-Eberhard Schorr, *Reflexionsprobleme im Erziehungs-system* (Stuttgart: Klett-Cotta, 1979).

that will be further developed in later works, namely: the "technology deficit" of the educative relation, the hierarchical (vs. heterarchic) management at the university organization and the different modes of normative enforcement. Luhmann is convinced that the issuing of more pervasive regulation on academic lecturing and researching activities is consistent in its attempt to reduce universities' liability to individual impulses. He describes a top-down system of norms stemming from federal bureaus, into universities' rectors, heads of departments and finally the academic staff. The problem is not with the hierarchical division itself but with its assumptions of a rigid performance of the different elements, which risks a suppression of the academic calling.

As his reference to Wolf Lepenies' *Melancholie und Gesellschaft*[19] makes clear, while sublimating his personal experience with institutional *langue de bois*, Luhmann's views on the federal reform of the university have the classical topos of scholars' melancholy as their background. Despite their original context, they may help us identify factors that potentiate the reappearance of inhibition as a historical hallmark of academic endeavor.

Aware of the emerging challenges and tendencies of the university – the integration of new political, economic and mediatic purposes – Luhmann pointed to the limitations of too rigid descriptors to understand its structure and communication.[20] Resounding Weber's contrast between an "external" observation of science as a profession and science as calling for certain themes, i.e., an intrinsic vocation to embrace its disciplinary requirements,[21] Luhmann remarks that "[…] it may be that, if we do not

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19 Niklas Luhmann, "Zu viel Ordnung und Melancholie," 415. Originally published in 1969, the central thesis of Lepenies' classical book is that the suppression of opportunities for valid and effective action is the ground for the emergence of reflective and critical forms of observation. First as a result of the centralization of state power, in the so-called "kingship mechanism" and later with the emergence of technocratic models of rationality determining political action, the complex of inhibition affects particular social groups such as the nobility and the scholars. Always bearing the danger of excessive sentimentalism, by sharpening the criticism of the present the communicative bounds of literature contribute to sublimating (or even discharging) deep feelings of impotence and resentment. Wolf Lepenies, *Melancholie und Gesellschaft* (Frankfurt: Suhrkamp, 1972 [1969]), 185–213.

20 Considering the university as a product and "player" of a more complex and interdepend society led some to ask if and how one can preserve the classical attributions of academic institutions, cf. , for example, Rudolf Mosler "Ist die Idee der Universität noch aktuell?," in *Politische Ethik II. Bildung und Zivilisation*, ed. Michael Fischer and Heinrich Badura (Frankfurt am Main: Peter Lang, 2006).

21 See Max Weber, *The Vocation Lectures*, trans. Rodney Livingstone (Indianapolis: Hackett Publishing Company, 2004 [1919]). In various scientific disciplines, the reduction of academic performance to a professional role has been potentiated by the imposition of ordinary tasks grounded on unquestioned perspectives and pre-established protocols, cf. Friedrich H.

succeed in better placement of – let's say it in a melancholic tone – office and person, we are given an over-organized, melancholic university."[22]

Since the concepts of organization and freedom are always co-determinant, in his later observations on the autopoiesis of the university, Luhmann proposes to translate their dialectics into a new terminology, resorting to the categories of medium and form.[23] This will enable the processual temporalization of the tensions between freedom and regulation. These tensions culminated in the institutional double-bind that we may formulate as follows: the issuing of more restrictive regulation curtails the individual contributions to the university and society, leading to their withering, while unrestrained freedom makes it more liable to abuse and imposition of private interests, calling for more regulation.[24]

The university is an organization oriented to scientific research and educational processes, implying a complex integration of functions. Luhmann considers their difficult harmonization: "Normally, organizations of modern society specialize in one of the social functional systems: industrial companies and banks in the economy, churches in the religious system, schools in the educational system, political parties and interest groups in the political system. *There is an exception for universities*. As the principle of the unity of research and teaching proclaims, they serve science and education at the same time. This cannot be justified, even if it is officially sustained, by the educational value of scientific truth. The language in which knowledge is acquired has long been de-educational; and the fact that we need special university didactics and cannot bring it about shows once again that this is the case."[25]

University differentiates itself as a system by integrating the scientific code of truth and the educational codes of transmissibility and skill.

Tenbruck, "Wissenschaft als Trivialisierungsprozeß," in *Wissenschaftssoziologie: Studien und Materialien*, ed. Nico Stehr and René König, Sonderheft 18 der *Kölner Zeitschrift für Soziologie und Sozialpsychologie* (Opladen: Westdeutscher Verlag, 1975).

22 Niklas Luhmann, "Zu viel Ordnung und Melancholie," 415.

23 Niklas Luhmann, "Zwischen Gesellschaft und Organisation: Zur Situation der Universitäten," in *Soziologische Aufklärung 4: Beiträge zur funktionalen Differenzierung der Gesellschaft*, ed. Niklas Luhmann (Opladen: Westdeutscher Verlag, 1987), 202–204. For further development of the concepts of medium and form and their illustration in the system of science, see Niklas Luhmann, *Die Wissenschaft der Gesellschaft* (Frankfurt am Main: Suhrkamp, 1992), 75–87.

24 In an ironic tone, Luhmann states that with normative impositions from governments "good research and teaching can take place, but [they are] unplanned." Luhmann, "Zu viel Ordnung und Melancholie," 415. Luhmann expressed similar views regarding the "self-orientation of sciences" ("Zwischen Gesellschaft und Organisation," 247–248).

25 Luhmann, "Zwischen Gesellschaft und Organisation," 205. Rudolf Stichweh, "Die Form der Universität," in *Probleme der Form*, ed. Dirk Baecker (Frankfurt am Main: Suhrkamp, 1993), 193.

Science is guided by the distinction truth/untruth, establishing methods and procedures that may validate a theoretical or technological model, while education requires a double distinction between what is deemed to be "transmissible" (conveyable/non-conveyable) and the conditions to assess and measure its acquisition (skill/unskilled).[26] These binary distinctions guide evolving expectations regarding the validation of the marked side of the distinction, i.e. what the social system of science acknowledges to be true and what the educational system establishes as conveyable and as a skill to be acquired. These are self-referential distinctions that guide the selective operations of the system. They allow recursive forms of observation aiming at the continuous adjustment of criteria, procedures and goals.

In a later text,[27] Luhmann underlines how this combination, especially after the turbulence of May 68, forced the imposition of various state reforms, sometimes almost suspending academic autonomy and freedom consecrated in most constitutions of western countries. Also as a result of the demands for dynamic integration of the two valences and their various levels of regulation, the University could no longer be framed in the classical institutional model, *i.e.,* as an organization in charge of the resolution of a social problem, relying, for instance, on the Weberian distinction between rationality vs. irrationality.

At various moments, Luhmann has pointed to the University's greater sensitivity to emerging societal problems and challenges propelling the interdisciplinary paradigm and the imposition of a broader conception of rationality, leading to the creation of new fields of study and departments. In the background of this internal differentiation of the academic medium, we may see the critical reformulation of thought and truth and the pursuit of effective and meaningful ways of action with a transformative impact on society.

Paradoxically, as a way to adapt to the impact of external regulation and social expectations, the university developed into an autopoietic system, "since a higher *responsivity* of the system to its social environment [Umwelt] is only compatible with its autonomy when it is balanced

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26 These educative codes ground the creation of normative schemes and programs that, although with different ways of application and enforcement, concern both the curricula of students and the careers of teachers.

27 Niklas Luhmann, "Die Universität als organisierte Institution," in *Schriften zur Organisation*, vol 4 – Gesellschaftliche Differenzierung, ed. Ernst Lukas and Veronika Tacke (Wiesbaden: Springer, 2019 [1992]).

with an increased *internal differentiation*."[28] Its internal medium concerns "a large set of very loosely linked elements"[29] underlying the educative relation, organized around formal curricula and the corresponding activities of instruction and certification, but also the submission and development of research programs. Returning to the dynamics acknowledged in his earlier manuscript on the melancholic condition, he simplifies the concepts: "Freedom is the medium, organization is the form."[30] Stichweh suggested the "academic credit system"[31] as the proper medium in which more rigid forms of distinction emerge to define its operations and their reflexive observation. Nevertheless, although it encompasses the relevant forms of teaching, such as the process of preparation and "transference" of particular curricula, and learning, involved in pursuing a course of studies, the accreditation system covers a limited part of the academic medium when it comes to research activities.

Luhmann holds truth to be excessively totalizing as a medium. Since modern science "does not recognize dogmatic of natural invariants," the university allows diverse forms of reasoning, and, we must add, as a system it integrates matters that resist analytical methods. At the same time, organizational structures and norms "restrict the possible [in terms of the themes and motives] to what is feasible [auf das Machbare],"[32] depending on the development of new forms that create and respond to the system's ever-evolving medium. Even if a significant part of its infrastructure includes executive and supporting communications, the products or outcomes of the university tend to be identified with the double concretization of the scientific and the educational codes and programs, including the internal procedures of evaluation and regulation.[33] Therefore, the so-called "transference of knowledge" is the complement of the "manufacturing"[34]

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28 Stichweh, "Die Form der Universität," 202. This led to a redefinition of the academic criteria of admission/exclusion, but also to the extension of the notion of "science," fostering the creation of new fields of study and expertise, see, for example, Luhmann, "Die Universität als organisierte Institution," 198–200.

29 Luhmann, "Zwischen Gesellschaft und Organisation," 202.

30 Ibid., 203.

31 Stichweh, "Die Form der Universität," 206.

32 Luhmann, "Zwischen Gesellschaft und Organisation," 203.

33 Although the satisfaction of students tends to be assumed as the more important target for self-regulation than research programs which are frequently developed in loosely connected "epistemic communities" Rudolf Stichweh, "Neue Steuerungsformen der Universität und die akademische Selbstverwaltung," in *Die Idee der Universität heute*, ed. Dietrich Korsch and Ulrich Sieg (München: De Gruyter Saur, 2005), 125.

34 Adopting the term of the classic work of Karin Knorr Cetina Knorr Cetina: *Epistemic Cultures. How Sciences Make Knowledge* (Cambridge, MA: Harvard University Press, 2003).

and validation of knowledge and this provides the background for the admission of students and the certification of designated competencies. In Luhmann's account, federal and internal regulation in all university matters achieved a peak where academic medium and forms seem to dissolve in each other, a paradoxical condition in which everyone navigates in a highly saturated field: "The system culminates in the central paradox that nobody knows whether the rule 'no rule without exception' applies with exception (i.e., without exception) or without exception (i.e., with exception). But that would not matter anyway, since you cannot find the person who could decide on this question and thus de-paradox the system. *The system is a castle like that of Kafka: without sovereign*."[35]

Luhmann contends that to understand its selective processes, the observation of social organizations requires a distinction between the person, as a communicative form, with certain obligations and expectations (enforcement of policy and decision-making)[36] and the individual as a psychophysical entity. Only this bi-faciality allows an encompassing thematization of motivation.

This distinction between the person as a communicative category and the psychophysical individual has far-reaching consequences for the academic medium. It constitutes the bi-faciality of motivation at play in the "function of multiplication of prestige"[37] that grounds the issuing of qualified advice and counsels.

In agreement with historical variants of the inhibition complex sketched by Lepenies, Luhmann argues that when facing excessive regulation at the executive levels regarding teaching and research, the individual tends to develop protective adaptation strategies, among others preventing engagement in challenging projects. This is decisive in the formation of the academic as a thinker, interfering in his or her willingness and motives to take part in public stages or even in scientific advice.

Many university members seem drowned in competition, attempting to fulfill the ultimate milestone of higher education careers.[38] At the insti-

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35 Luhmann, "Zwischen Gesellschaft und Organisation," 204, with added italics.

36 This is a determinant form to reduce the inner contingency of the system: "[t]he form of the person serves exclusively for the self-organization of the social system, for solving the problem of double contingency by restricting the behavioral repertoire of the participants." Niklas Luhmann, "Die Form 'Person,'" in *Soziologische Aufklärung*, vol 6 – *Die Soziologie und der Mensch*, ed. Niklas Luhmann (Opladen: Westdeutscher Verlag, 1995), 152.

37 Luhmann, "Zwischen Gesellschaft und Organisation," 205.

38 According to the report provided by Marek Kwiek and Dominik Antonowicz, in the last decades academic careers become less secure and more instable. The scholar is expected to combine a greater amount of extra-curricular and bureaucratic duties with the appetence for

tutional level, we witness a growing need to acknowledge the "changing needs"[39] and demands of states and regions, students and the labour market. Instead of the assumption of a guidance or orientation role for the larger society, those two major tendencies seem to conform to a servile profile. Nevertheless, even if, with the current overload of opinion makers and influencers, a certain tendency to shy away from participation in "civil society" is becoming evident, the intellectual has a responsibility to apply his expertise and knowledge to the benefit of society.

Public counsel or advice may be seen as an external concretization of the coupling between the scientific and the educational, characterizing the academic medium. However, it calls for recognizing the complex construction of this "excrescence" or resonance of the academic functions considered in their operative closure. It requires, along with the creation of a space of academic freedom, the digesting of the current semantic understanding of a problem and the responsibility of adapting the message to a diversified audience.[40] As such, the formation and delivery of scientific or academic advice always require the adaptation of its outcome (report or counsel) to a target audience. This may imply the creation of different levels of access to that outcome or the facilitation of different levels of entry in its content. But while it remains a viable form of universities' impact on society, this is a complex task, updating the risks involved in the historical configuration of the problem of counsel.

It counters the hypersaturated nature of the universities medium and what we could term its "self-consuming" activities.

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taking risks and innovate, particularly in the field of research. While this double regime and its rhythms are certainly more demanding, they enable a higher predictability of careers' adjustment and success. "The Changing Paths in Academic Careers in European Universities: Minor Steps and Major Milestones," in *Academic Work and Careers in Europe: Trends, Challenges, Perspectives*, ed. Tatiana Fumasoli, Gaële Goastellec and Barbara M. Kehm (Zurich: Springer, 2015). Luhmann touched on these points when considering the bureaucratic logic of organizational forms of research funding: "Applications must be made as if it were not a question of official duty, but of a privilege to be granted by way of exception. Correspondingly, the risk increases, especially in 'bad times,' that such applications will be rejected and the preparation efforts will have been in vain. One can assume that the actual research is controlled to a considerable extent by the variable 'risk propensity of applicants,' which in turn may depend more on enterprise motives than on knowledge motives, for example on the motive to open up new sources of income for existing employees." Luhmann, "Die Universität als organisierte Institution," 199.

39   Kwiek and Antonowicz, "The Changing Paths in Academic Career," 60.

40   In the fourth chapter of his *Lessons of the Masters* (Cambridge and London: Harvard University Press, 2003), George Steiner addresses the problem of knowing to which extent an intellectual might be responsible for the misappropriation of his teachings, particularly the "esoteric" version he discloses to an "elect handful" (101).

Here, I refer to counsel or advice in *lato sensu*, as the process of providing a view over a current problem that is an object of public attention, demanding a decision or the adoption of a strategy on to how to deal with it.

The call for counsel addresses problems already molded by semantic assumptions and arrangements inherent to the managing of the problem and the multiple pressures and expectations resulting from the striving for achieving (and imposing) the best decision or vision. The counselor or advisor requires a new presentation of the problem, addressing it in a dialogical relation with the other.

It is important to note that, even when supported by scientific methods and models, the counsel tends to assume a narrative form that conveys a personal standpoint. Counsel, therefore, implies going beyond the analytical logic of scientific reports. Through it, the representatives of the university venture into the realm of political debate and, by raising awareness or reframing problems, may influence policy and decision-making.

The new problems of counsel are directly related to one of the new tendencies of the university identified by Luhmann, that of "Prestige-multiplikation," which (here) is to be understood as the mutual reinforcement of scientific and educational reputation.[41] At the same time, it implies a complex division of scientific work as the support of a new dominant model of intellectual's "positioning."[42]

Contemporary universities seem to have eased the tension between organization and academic freedom, integrating the public performance of the academic in its communicative diagrams and goals.[43] The reconfiguration of the problem of counsel is an expression of that integrative solution. It is no longer restricted to the constrictions imposed by political regimes,[44] but entails a more complex construction of reputation and credibility involved in the solicitation, production, and delivery of counsel by scientific institutions and public intellectuals.

41   "Prestige is, therefore, the actual medium that connects research and teaching and brings them into mutual increasing." Luhmann, "Zwischen Gesellschaft und Organisation," 205.

42   See Patrick Baert, "The Philosopher as Public Intellectual," in *Public Intellectuals in the Global Arena; Professors or Pundits*, ed. Michael Desch (Notre Dame, Indiana: University of Notre Dame Press, 2016).

43   Ronald Dworkin, "We Need a New Interpretation of Academic Freedom," in *The Future of Academic Freedom*, ed. Louis Menand (Chicago: University of Chicago Press, 1996).

44   Judith Butler, "Academic Freedom and the Critical Task of the University," *Globalizations* 14, no. 6 (2017): 857–861.

The formation of public intellectuals and their "positioning" are recurrent themes in the discussions regarding the functioning and purposes of the university. They may be considered central for substantiating the concept of liberal education. It is frequently noted how the present constrictions of academic curricula and careers, with the striving for short-term outcomes and profit, seem to hinder the formation of autonomous thinkers. Along with the overload of academic tasks that characterizes the commodification of education, the imposition of rigid research fields reinforces narrow views that foreclose an integrative approach to complex problems. These diagnoses are certainly right, but the seeming demission of the public intellectual is part of a bigger picture.

Changes in the Academic Positioning for Delivering Counsel and Academic Advice

Academic counsel and advice on matters of public interest, which may require diverse fields of knowledge to deal with particular systems and their ecological impact, have different declinations.

Advice may be integrated in the political processes, as part of participatory policy-making that ensures both the reliability of information grounding legislative and executive action and their public accountability. This scientific advice may be termed expert knowledge that, although having various levels of personal representation, is idealized as impersonal. It is generally conceived as the outcome of scientific procedures validated by the scientific community, as an unbiased account of a certain issue.[45] However, while the acceptance of its recommendations may contribute to the citizen's acceptance of government's reasoning, if scientific advice remains purely technical or analytical, it evades the normative problems inherent in its acceptance and implementation, putting the *onus* of decision on the state authorities. I will return to this problem in the following section.

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[45] Reflecting on academic freedom in the field of historical sciences, Thomas Haskell, *Objectivity Is Not Neutrality: Explanatory Schemes in History* (Baltimore: Johns Hopkins University Press, 1998), maintained that the practitioners taking part in the scientific community are (or become) aware that: they are in "competitive communication with one another ('open to mutual attack'), [and] that their decision-making process should be as public as possible (a matter of 'tested' methods and 'explicit' principles)." At the same time, the "truths that such communities generate fall short of being universal or 'foundational.' Anyone relying on such truths takes a calculated risk, not only that the community's current opinion may not be right, but that its internal dynamics may render it obsolete tomorrow." (222)

More common in the social and human sciences, another type of academic counsel concerns the participation of the public intellectual in debates over current social problems or challenges.

The proliferation of the "knowing all" intellectual, assuming an engaged position, from the end of the war until the end of the sixties[46] may be understood as the result of the "crisis of causality" at the transition to the twentieth century *and* the decline in the belief that the expert possesses a knowledge that provides a neutral answer to the challenges at hand.[47] The voice of intellectuals such as Sartre or Bertrand Russell was grounded on self-assertiveness and charismatic authority, sometimes obliquely related to their academic credentials. They expressed their personal views, mostly on matters that escape analytical and scientific scrutiny, the great philosophical questions and the destiny of humanity.

In his planning for the creation of the Bielefeld University, Helmut Schelsky, promoter of a culture of knowledge and discussion, envisioned a new public intellectual, the expert.[48] Steaming from the refusal of the paternalistic models of guidance, the university revolution of 68 had a role in the emergence of a new academic that could represent vast forms of dissent. This was the profile of figures such as Bourdieu or Foucault, whose views on political and social matters were grounded in the academic recognition of their methods of research. Luhmann himself

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46 In *The Americanization of Social Science: Intellectuals and Public Responsibility in the Postwar United States* (Philadelphia: Temple University Press, 2008), David Paul Haney argues that the relative absence of intellectuals of this stature in the post-war United States must be attributed to a particular specialization of the American academia, which is consistent with Talcott Parsons and Robert Merton's views on the status of social sciences and their determinant role in policymaking (31–45). Somewhat paradoxically, by defending their scientific rigor and integrity from public misperception and their instrumentalization by political and economic power, the social sciences relinquished a significant part of their transformative potential. Such tenacious commitment to the preservation of their muse occasioned pressures for the scholars to withdraw from the public space and opprobrium over those that attained popularity in the media (203–231). This self-enclosure of scientific endeavor, preserved for technocratic application, is inextricably linked with what Hans L. Zetterberg, departing from Merton's conceptual framework, termed "acedia of specialization" ("Scientific Acedia," *Sociological Focus* 1, no. 1 (1967): 37-38). According to Frank Furedi, this exclusion of scientists from the effective and independent participation in the process of political decision-making is a major contributor to the depoliticization of public life, culminating in the "acclamation of apathy" (*Democracy Under Siege. Don't Let Them Lock It Down!* [Washington: Zero Books, 2020], 121–123).

47 See Thomas Haskell, *The Emergence of Professional Social Science: The American Social Science Association and the Nineteenth-Century Crisis of Authority* (Baltimore: The Johns Hopkins University Press, 2000 [1977]).

48 Luhmann reflected on Schelsky's university planning and implementation ("Die Universität als organisierte Institution," 194–197).

can be considered a scientific former of opinion, although he manifested a certain ambivalence concerning such status.[49]

According to Lepenies,[50] not for a second would it occur to Schelsky to conceive the expert as a natural scientist. As he notes in *Aufstieg und Fall der Intellektuellen in Europa*, Sociology comes to assume a role previously reserved for the prophets which insisted on enlivening dead ideals, affirming itself in a productive gap between the application of the scientific method to society and the unrestrained digests of literature. It presented a third way between the melancholic contemplation, a negativity towards the present order that has lost its efficacy in the socio-economic conditions of liberal democracies, and the achievement of the utopian technocracy, presuming to hold the pathways to perfection and compulsive happiness.

The fall of the *homo europaeus Intellectualis* and his "faith in genuine, authentic revolution, which would put an end to the ills of the west"[51] leaves a void which cannot be filled by the social scientist or the technician. According to Lepenies, the engaged position of the scholars coming from the eastern bloc – we may think of intellectuals of the stature of Vaclav Havel – brought renewed enthusiasm around values and principles cemented on personal commitment and consistency, that had long given place to abstract, technocratic views, or everyday commentary. The return of the philosopher, first as the engaged melancholic that called for an open society and later as the "failed intellectual" engaged in the political arena, contrasted with the safe and lukewarm attitudes of the public intellectuals of the west.

In his reading of Lepenies' views, Kwiek[52] pointed to the role of the intellectual in reviewing the conviction of a new objective order of society

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49 This ambivalence was well captured by Hans Gumbrecht. Luhmann refused that his theory was contaminated by personal influences and, conform to Weber's model of the expert, already at the time of publication of *Sozial Systeme* in 1984, acted as if his theory was the outcome of a large network of social sciences' laboratories and "all the world worked in systems theory, as a great swarm" (Hans Ulrich Gumbrecht, "'Alteuropa' und 'Der Soziologe' Wie verhält sich Niklas Luhmanns Theorie zur philosophischen Tradition?," in *Luhmann Lektüren*, ed. Wolfram Burckhardt [Berlin: Kulturverlag Kadmos, 2010], 73). At the same time, due to his own relevance and prestige, Luhmann's personal views acquired a great potential to influence political agenda and policy-making.

50 Wolf Lepenies, *Between Literature and Science: The Rise of Sociology*, trans. R. J. Hollingdale (Cambridge: Cambridge University Press, 1988), 348.

51 Bernard-Henri Lévy, *Adventures on the Freedom Road. The French Intellectuals in the 20th Century*, trans. Richard Veasey (London: The Harvill Press, 1995), 43.

52 Marek Kwiek, "Wolf Lepenies: Homo Europaeus Intellectualis Revisited," in *Philosophie an der Schwelle des 21. Jahrhunderts*, ed. E. Czerwinska-Schupp (Frankfurt am Main and New York: Peter Lang, 2003).

where everything can be trusted to analytical and technical approaches, condemning the intellectual to a vain play of "unemployed negativity," similar to the incredulous conclusion that Georges Bataille extracted from Kojève's reading of the Hegelian system.

Academic instruction certainly provides a better assessment of socio-political issues and interdisciplinary ways to understand and manage them. In the Arts and Humanities for instance, in the attempt to reach and engage the larger public – sometimes accepting the risk of damaging their muses – scholars may realize that in order to raise awareness or "touch" the public the conventional perimeter of the academy must be exceeded. Apropos constitutive possibilities of the university, Peter Sloterdijk asked: "what is an academy aside from institutionalized melancholy about the fact that art is long and life is short and we can neither solve crucial problems nor forget them?"[53]

As an alternative to resignation or despair, dreaming and utopian imagination have been the privileged soil for class or group resentment over their demise or loss of significance in public life. Not without irony, Luhmann presented a similar view on philosophy's resentment over its loss of dominium over public opinion, first with the emergence of social sciences and mass media, and later with its ambivalent attitude about the possibility of adaptation of its contribution.[54]

According to Bauman's diagnosis of post-modernity, the mandate for academic "legislative reason" has ceased, being replaced by the plurality of "interpretative reason."[55] This change is expressed in a striking paradox that we may witness in recent decades. The greater the academic freedom, particularly in the humanities, the greater relative irrelevance of scholar's words, theories and counsels.[56] This "powerlessness of an intellectual"

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53 Peter Sloterdijk, *The Aesthetic Imperative: Writings on Art*, trans. Karen Margolis (Cambridge: Polity Press, 2017 [2007]), 281.

54 "If one wants to judge the possibilities of self-description in and by modern society, one must above all consider that it is no longer passed down orally as a teaching of wisdom and no longer articulates high final thoughts as a philosophy, but follows the autonomy of the mass media. Inevitably, every morning and evening, the web of news descends upon the earth, determining what has been and what is to be expected. Some events happen of their own accord, and society is turbulent enough that something is always happening. Others are produced for the mass media. Above all, the expression of an opinion can be treated as an event, so that media can reflexively allow their material to enter itself." Niklas Luhmann, *Die Gesellschaft der Gesellschaft* (Frankfurt am Main: Suhrkamp, 1997), 1097.

55 Zygmunt Bauman, "Philosophical Affinities of Postmodern Sociology," *Sociological Review* 38, no. 3 (1990): 411–444.

56 This was the bittersweet diagnosis of Zygmunt Bauman according to which: "Having reached the nadir of their political relevance modern intellectuals enjoy freedom of thought and

contrasts deeply with the Kojevean assumption according to which the conveying of a philosopher's understanding could bring world redemption.

But the disappearance of the public intellectuals is only apparent. The ever-renewed call for public participation has its counterpart in the emergence of new forms of academic public positioning.[57]

This reflects Thomas Macho's[58] distinction between two ideal types of counsel: one based on the presence and (presumed) wisdom that takes part in a mysterious ritual of revelation, a form termed "charismatic," and the counsel of the one who speaks "out of experience" and with a knowledge that allows questioning and demonstration, termed "pragmatic." The charismatic model of counsel, which characterized the golden era of post-war intellectuals, is no longer viable. Through the ritualization of statements, these charismatic forms of counsel countered the clarification or the access to the metacomunicative level.

In recent decades, in highly mediatized societies, various factors have contributed to a rejection of unconditional and unqualified assertions grounded exclusively in authority. This change has been favored by a less hierarchical educative system, emerging communication technologies, and society's greater complexity and contingency.

In contemporary society, with the explosion of social media and the imposition of the culture of influencers, any position is open to scrutiny and interactive comment, taking part in what Sloterdijk termed the "collective fields of excitation,"[59] in which "dialogical intellectuals" take part, since "[c]ontrary to both authoritative and expert public intellectuals, dialogical public intellectuals do not assume a superior stance towards their publics."[60] Although the discursive position of the "knowing all"

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expression they could not dream of at the time that words mattered politically. This is an autonomy of no practical consequence outside the self-enclosed world of intellectual discourse." ("Legislators and Interpreters: Culture as the Ideology of Intellectuals," in *Intimations of Postmodernity* [London: Routledge, 1992], 16).

57   See, for instance, Sloterdijk's appeal: "[t]he comprehensive world crisis of our time should provoke the philosophers who had been hiding in the bosom of the universities to come out of hiding. We must go back to the streets and squares, to the *pages littéraires* and the screens, to the schools and the popular festivals, to give back to our trade, the brightest and most melancholy in the world, the importance that, well done, it also has on the fields of non-academic life. Countless people are asking more urgently than they have for a long time what that is: the good and conscious life. Anyone who thinks they know the answer – or who wants to ask a counter-question: they should now go forward and talk." (*Was geschah im 20. Jahrhundert?* [Berlin: Suhrkamp 2016], 213).

58   Macho, "Zur Ideengeschichte der Beratung," 22–27.

59   Peter Sloterdijk, *Neither Sun nor Death*, with Hans-Jürgen Heinrichs, trans. Steve Corcoran (Los Angeles: Semiotext(e) 2011[2001]), 84.

60   Baert, "The Philosopher as Public Intellectual," 170.

intellectual is clearly in decline, the philosopher's participation in the public space retains the possibility of reframing the current themes. He must resume the ancient function of pondering, immunizing himself against the torrent of opinions, developing his own voice.[61]

Even when abstaining from provide formal counsel on a given matter, he preserves the requirement of providing a view or perspective that at least interrupts the current understanding of the topic at hand. This function of the interrupter, someone that dares to disturb, might be considered the recessive form of a more authoritative way of positioning.

The Democratic Call for Scientific Advice; New Risks and Challenges

Although their conceptual division is highly porous, allowing contaminations and reciprocal influence, irrespective of their intrinsic relation with scientific prestige, these processes differ significantly in their origin and status.

The integration of scientific advice in decision-making occurs mostly in the form of reports that meet rigorous scientific methods, aiming at an unbiased assessment of a given issue. Therefore, although they allow scientific impersonation by a representative, intrinsically related to the reputation of her academic institution (department, research institute or laboratory), which is in increasing competition with other providers of scientific advice such as consulting enterprises and think tanks,[62] the recommendations are based on an impersonal analysis.

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61 "As a bearer of a philosophical function I have neither the right nor the desire to be either a conductor in a stress-semantic chain or the automation of an ethical imperative. Intellectual askesis or the effort of distance no longer functions in such situations. Remarkably few are those who manage to develop a unique opinion, one that is independent of the induction of excitation and are thereby able to interrupt the wave. In the future it will be necessary to raise the following question incessantly: am I contributing to a debate or am I running along with the mob?" (Sloterdijk, *Neither Sun nor Death*, 84).

62 To understand the vectors of these dynamics of competition, Daniel Kleinman and Steven Vallas proposed the concept of "assymetric convergence," referring to how higher education institutions and enterprises appropriate practices and goals that are characteristic of the other into their own terms. According to the authors, this generates "contradictions, anomalies, and ironies that violate long-held normative understandings yet increasingly pervade both university and industrial laboratories." ("Contradiction in convergence. Universities and industry in the biotechnology field" in *The New Political Sociology of Science. Institutions, Networks and Power*, edited by Scott Frickel and Kelly Moore [Madison, Wisconsin: The University of Wisconsin Press, 2006], 36).

In contrast with this impartial positioning of the experts, and as a symptom of the specialization of scientific research which tends to know more and more about narrow subjects,[63] unprepared and/or unwilling to take part in current moral and political debates, the counsel of public intellectuals, albeit no longer adopting a prophetic stance on the destinies of humanity, has necessarily to exceed the strict limits of a field of knowledge. In order to recover legislative reason, it needs to evade the strict limitation of analytical reasoning, assuming a position in conditions of uncertainty.

In both cases, an extension of the forms of education and research that emerge in the academic medium is implied. However, since it has a recursive effect on the reputation of both the university and the adviser, this is far from reduced to an outsourcing service.

The technical expertise implied in advice and counsel implies greater importance of research and development over the educational valence of the university. Nevertheless, since it always involves the delivery of outcomes, assessments, or recommendations, sometimes in viva voce, the providing of advice or counsel preserves critical pedagogical importance. This becomes more evident when the receiver or client of scientific advice requires a better understanding of the methods, presuppositions and data that lead to a conclusion or recommendation. In the delivery of scientific reports for legislative and executive action, this is indeed a determinant part to ensure the public scrutiny and accountability of the advice. In the case of the traditional form of Counseling, since its assessment, definition and resolution of a given problem depended on the recursive communication with the client, instead of a model of "transfer of knowledge" one had to consider the possibility of a renewed approach to the original problem demanding the effective involvement of the client. In both cases, particularly when we take into account the transition from the charismatic to the pragmatic register in the production and delivery of counsel, it becomes clear that explanation and reasons, either displayed at once or in recursive

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63 In *The Vocation Lectures*, Weber presents a progressive interweaving between this process of specialization and the scientific calling, "the *inner* vocation of science": "[S]cience has entered a stage of specialization that has no precedent and that will continue for all time. (…) Only rigorous specialization can give the scholar the feeling for what may be the one and only time in his entire life, that here he has achieved something that will *last*. / Nowadays, a really definitive and valuable achievement is always the product of specialization. And anyone who lacks the ability to don blinkers for once and to convince himself that the destiny of his soul depends upon whether he is right to make precisely this conjecture and no other at this point in his manuscript should keep well away from science." (7–8)

participation in the process of assessment of an issue, play an important role in the valuing of counsel, contributing to reinforce the commitment in its subsequent adoption (or rejection).

When considering the call for scientific advice and its applications in governance, it becomes clear that refusal or distrust in scientific deliberations is no longer to be attributed to conflicting values, the clash with religious or cultural beliefs, the fact that, as Thomas Haskell put it, "in many parts of the world these truths will seem too frail to be valued, and even where valued they may prove too lacking in charismatic authority to compete against other, more visceral sources of conviction."[64] Nor can such forms of resistance always be discredited as simply resulting from greater exposure to an ever-growing torrent of non-scientific views of reality or counter-culture. Lack of transparency and conflicts of interest in decisory processes, sometimes restricting broader participation of citizens and groups (or their representatives), are essential to account for the resistance to the manufacturing of consensus, particularly when those decisions have a crucial impact on individual and social life.

Although Weber acknowledged the expert as a public official providing technical expertise to government authorities,[65] he was convinced that the ability to take determinant action should be safeguarded as a prerogative of the political leader.[66] But in the course of the twentieth century, by virtue of its integration into the political decision processes, the epistemic authority "ascribed to the possessor of specialized knowledge, skills, or expertise,"[67] increased its "epistemocratic" status. Nevertheless, in virtually every area where academic advice is required, there is space for conflicting views on a problem. The decision process, including the moment of counsel, has to account for the need for participatory deliberation and public accountability. This means that instead of self-evident rationality at the center of academic advice and governance models, even when these work in tandem, there is an assessment of risks regarding the acceptance of the decision process. In his study on *Authority*, Joseph Raz pointed to the distinction, which implies an epistemic gap

64 Haskell, *Objectivity Is Not Neutrality*, 222–3.
65 Max Weber, "Parlament und Regierung im neugeordneten Deutschland. Zur politischen Kritik des Beamtentums und Parteiwesens," in *Gesammelte Politische Schriften* (Tübingen: Mohr, 1958 [1918]), 320–350.
66 "Politicians must counterbalance the rule of public officials." Weber, "Parlament und Regierung...," 323.
67 Terence Ball, "Authority and Conceptual Change," in *Authority Revisited*, ed. J.R. Pennock and J.W. Chapman (New York University Press: New York, 1987), 47–48.

between scientific and theoretical authority, whose focus is to provide "reason for belief," and political authority, which establishes "reason for action" as fundamental in legislative and executive governance.[68]

COVID-19 has repeatedly made clear that science cannot be immediately translated into policy-making, even if politicians seem eager to outsource decisions under pressing conditions of uncertainty, insulating themselves in the pieces of advice of scientific experts or committees,[69] what Sloterdijk termed "absolution through consultation."[70]

The present COVID-19 epidemic has brought a significant transformation on the prevailing type of public intellectual, but also on the register of public advice and counsel. During the pandemic, a significant part of the co-production of technical expertise and political decision-making took place on the mass media stage. With the generalization of biomedical semantics and scientific impersonation in social media, scientific advice would liberate "leading indecision-makers" from their impasses. Instead of ideological standpoints, critical reflection, and speculation, the spotlights targeted the expert in certain biomedical topics. The "dialogical intellectuals" gave room to biomedical, epidemiological, and public health experts. This was justified by the uncertainties of the epidemic and the recognized need to suspend or reframe assumptions of individual rights and freedoms in states of emergency.

At the same time, under pandemic emergency, the manufacturing of consensus became more systematic, smothering or canceling the voices of non-aligned experts even when the resort to scientific advice led to contradictory signs by political and health authorities.[71] While these measures were justified (and called for) to make science speak in unison, *a una voce*, they inadvertently fuelled public mistrust and hesitancy in the acceptance of public-health measures. With the prospects of

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68 Joseph Raz, *Authority* (Oxford: Basil Blackwell, 1990), 5.

69 Furedi, *Democracy Under Siege*, chap. 9.

70 Peter Sloterdijk, *In the world interior of capital. For a philosophical theory of globalization*, trans. W. Hoban (Cambridge: Polity, 2013 [2005]), 65.

71 Still at the beginning of the COVID-19 crisis, Professor Devi Sridhar, chair of global public health at the University of Edinburgh, affirmed that "[a]s a scientist, I hope I never again hear the phrase 'based on the best science and evidence' spoken by a politician (…). This phrase has become basically meaningless and used to explain anything and everything." (Hannah Devlin and Sarah Boseley, "Scientists criticise UK government's 'following the science' claim," The Guardian, April 23, 2020, https://amp.theguardian.com/world/2020/apr/23/scientists-criticise -uk-government-over-following-the-science). For a critical overview of the risks involved in the imposition of the "following the science mantra" as the way to insulate political decision from public scrutiny, see Furedi, *Democracy Under Siege*.

a better management of the virus and a correlative easing of restrictions, some of the expert advisors that emerged in mediatic space during the pandemic are worried about their loss of relevance, striving to preserve their space in public reasoning.

Ironically, as recently suggested by Elena Esposito, a return to forms of counsel proper of the charismatic register, whose grounds are (or have become) opaque and inscrutable, is taking place.[72] They are no longer issued and impersonated by the "intellectual prophet" or the technocrat, stemming from the self-enclosed operation of predictive algorithms based on deep machine learning. These new oracles rely on the processing of omens whose complexity is inaccessible to human predictive reasoning. The risks involved in the reliance on AI algorithms are far from restricted to the display of bias in target prediction concerning health and security.[73] The automatization of advice in ethical and political matters is the ultimate frontier in delegating major (and minor) decisions, promising a dissolution of the uncertainty at the center of the processes of counseling and advising. As such, it may be seen as a fusion between the proper institution of *consilia* and *praecepta*, two forms of support to decision-making. In this case, the prediction of the future not only conditions what is expectable but, by recursively defining what is to be the case at each moment, collapses the openness to the future. Since it precludes the processes of public accountability and democratic participation, advice based on AI, while it may be deemed neutral, fosters impersonal and pervasive forms of influence and command in the management of the future. Even if these algorithms develop beyond instrumental rationality, with specific cognition to provide qualified advice in a particular field whether in the form of recommendations or instructions-, the assessment of its groundings remains inaccessible. This calls for critical reflection and regulation, including participative human reasoning and communication.[74]

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72   Elena Esposito, "Future and uncertainty in the digital society," filmed March 2018 in Berlin, https://www.youtube.com/watch?v=zb18MZn9Ies&feature=emb_imp_woyt/.

73   At the same time, since the assessment of upcoming risks always has to account for the impact of its predictions in the future, as a form of self-fulfilled prophecy, it may lead to the adoption of egotist strategies that disturb social ecology.

74   In *AI Ethics* (Cambridge, Massachusetts and London: MIT Press, 2020), Mark Coeckelbergh develops this line of reasoning proposing criteria of "transparency" and "explainability" in the development and implementation of IA technology (esp: 116–123).

Conclusion

Despite the significant differences between its traditional and contemporary configuration, a melancholic ambivalence subsists at the core of the problem of counsel. Focusing on Luhmann's reflections, we sustained that such a condition can only be understood if we consider the differentiation of the modern university, which resulted in new expectations regarding the quality and reach of its expertise. Aside from its attribution to intense cognitive workload, with imagination and abstraction damaging the vital spirits of the brain, melancholy is also a consequence of the severance of intellectual activity from effective action, sometimes leading to a complex of inhibition. Its classical escapes were reverie and utopia. Counsel and advice were obvious ways to influence the world's destinies. However, to reach their full potential, released from the spectrum of punishment and instrumentalization, they needed to conquer credibility as a valuable resource for the ruler and his subjects.

The modern university emerge as the bearer of a type of reflexive knowledge that under successive banners – universality, rationality and reliability – could short-circuit the parochial and intimate modes of influence that leave counsel prey to the flattery of favorites and the vested interests of members of the court and council. Its credibility demanded the management of tension between the pressures of discretion and secrecy – related to the issue at hand and the use of frankness – and those of publicity that provided the possibility of a larger approval of the resort to Counseling.

Luhmann's observations on the regulation of the modern university insist on how, by interfering in its self-organizing teaching and researching activities, it may limit the exercise of academic freedom. However, the "multiplication of prestige" as a function of academic careers reinforces the vectors of risk and innovation that involve its integration in processes of decision-making and participating in the formation of public opinion.

Scientific advice and counsel are major forms by which the scientific and educational processes of the university have an impact in the "real" world, especially in liberal democracies where they are presumed to inform policy-making and political decisions. These must ensure that, along with the self-regulative mechanisms of the scientific community, the transition from recommendation to decision is open to public scrutiny and accountability.

Autopoiesis and Universities

Diggers of Theoretical Principles and Healers of Constitutional Value Pluralism: On the Particular Function of University Legal Education*

Jiří Přibáň

In this chapter, I argue that validity claims are not guaranteed by an ultimate principle and reason behind the construction of social reality which could be identified by academic theories and disseminated by both academic and non-academic education. I, rather, argue that the systems of positive law and legal education are self-constituted by their internal self-limitation avoiding the promise of constituting the authentic self and identity of polity by distancing theoretical education and positive law from the moral code of good/bad. Constitutional values cannot be considered society's transcendental foundations normatively constituting it from its outside by the system of education. Constitutional values, rather, are internally generated expectations defining the difference between legitimacy and illegitimacies in both politics and law.

Between the Justitia's Utopia and Internal Meaning of Law: Introductory Remarks

The idea of justice and the possibility of its dissemination by correct knowledge and education always have been intrinsic part of political and legal constitutionalism. The coercive powers of the state and any other political organisation require legitimacy through these functions of justice.

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*   This text and its main argument draw on specific chapters and arguments developed in my monograph *Constitutional Imaginaries: A Theory of European Societal Constitutionalism* (London: Routledge, 2022).

Political authority's coercion is not merely an execution of brute force. Power manifested in state sovereignty draws on legitimacy through the primary sovereignty of those subjected to it; that is, legal subjects of the democratic state with their basic rights and freedoms. At this moment, Leviathan is replaced by Justitia displaying both the sword, symbolising power, and the scale, symbolising justice, because, as Otfried Höffe comments, "faith in justice without enforcement would be sheer naivety; toleration of political power untutored by justice is the height of cynicism."[1]

Legal and political philosophies of the society's basic structure and integrative principle, such as Dworkin's empire of law governed by Hercules the Judge[2] and Rawls's two principles of justice as fairness,[3] share the common belief in one correct answer to political problems and one correct method to deal with them. These philosophies, therefore, are part of what the Polish philosopher Leszek Kolakowski called "the epistemological utopia."[4]

According to Kolakowski, this utopia is intrinsic part of our culture searching for the ultimate transcendental grounds and improvement of our thinking and being by all sorts of societal means including education. Nevertheless, this search is coeval with another important part of the same culture – the skeptical and/or empiricist renouncement of this possibility to reach ultimate truth and certainty regarding the grounds of our thinking and being. Describing this intellectual dichotomy of modern culture, Kolakowski commented that "diggers" in quest of our philosophical and social utopias are as important as sceptical "healers" who keep us vigilant against prejudices of reason and all kinds of wishful thinking.[5]

From a very different sociological perspective, Talcott Parsons, critically focusing on the problems of economic and social crisis of the 1930s, came to address another cultural dichotomy of modern society in his lecture *The Professions and Social Structure*.[6] Parsons analysed the role of expert knowledge possessed, nurtured and permanently improved by various professions such as lawyers, economists and doctors. According

1   Otfried Höffe, *Political Justice* (Cambridge: Polity Press, 1995), 288.

2   Ronald Dworkin, *Law's Empire* (Cambridge, Massachusetts: Harvard University Press, 1986), 313ff.

3   John Rawls, *A Theory of Justice* (Cambridge, Massachusetts: Harvard University Press, 1971), 4.

4   Leszek Kolakowski, *Modernity on Endless Trial* (Chicago, Illinois: The University of Chicago Press, 1990), 133.

5   Ibid., 136.

6   Talcott Parsons, "The Professions and Social Structure," *Social Forces* 17, no. 4 (1939): 457–467.

to him, it is the high level of expertise, universal practice of their vocation, and primarily non-economic and non-profit orientation towards common values what entitles these professions as specific social groups to their job of paradoxically facilitating both universalism and specification in social structure and organisations. Due to their specific knowledge, these groups are elevated to the status of social elite delivering policies and benefiting to different social realms by the specific quality of their knowledge.

Analysing this paradoxical status of the modern society's functionaries and their "epistemological utopia" of the correct method, education and knowledge of principles and values requires analysing the social status of these allegedly universal principles and values and their theories or philosophies. Social and legal scientists then have to examine a simple fact that truths, held as self-evident and universally valid, are often severely contested within the same polity and ignored or suppressed by other polities.[7]

Modernity may be defined as the permanent struggle between different sets of self-evident truths. Principles of representative democracy and human rights are thus claim the status of the ultimate good of society and humanity to be identically formulated by all social systems and constituted as universal values shared by positive law and legal education. Nevertheless, they are constituted by internal operations of the constitutional system and, as long as constitutions are considered legally valid and their principles uncontested, no recourse to the idea of substantive political justice and legitimacy is needed for law's societal operations.

This paradox of particular operationality of universal values in law and their epistemological and normative status have been persuasively explained by Niklas Luhmann's theory of autopoietic social systems which argues that social subsystems are constituted by their self-referential constitution of internal meaning. All subsystems of society including education, science, politics and law, are normatively closed, self-referential and self-created – *autopoietic*. In this theoretical framework, society is constituted through autopoiesis of specific functionally differentiated systems. The systems of positive law, politics and education perform only specific operations in this general self-constitution of society.

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7   Jeremy Waldron, "A Right-Based Critique of Constitutional Rights," *Oxford Journal of Legal Studies* 13, no. 1 (1993): 28.

As regards the system of positive law, Luhmann famously criticised external and ultimate source of legal validity including those formulated by legal scholars in their theoretical work and pushed through academic education and institutions. He reformulated the problem of legitimacy and the principle of justice as an intrinsic value (Eigenvalue) of the legal system manifested in its procedures, operations, internal coherence and, most importantly, efficiency as the internal criterion of legitimacy. According to him, justice is "a contingency formula" and "the concept of substantive justice ... transforms a tautology into a sequence of arguments and makes something that is seen as highly artificial and contingent from the outside appear quite natural and necessary from the inside."[8]

However, persistent and repetitive jurisprudential debates regarding constitutional principles, supra-legal values and their entrenchment in both legal education and decision-making also show that the systems of positive law and education are expected to be meaningful beyond their function even if this meaning is impossible to achieve by rational consensus or academic arguments. In this chapter, I, therefore, argue that validity claims are not guaranteed by an ultimate principle and reason behind the construction of social reality which could be identified by academic theories and disseminated by both academic and non-academic education. I, rather, argue that the systems of positive law and legal education are self-constituted by their internal self-limitation which requires the adoption of "an ironic ethic"[9] avoiding the promise of constituting the authentic self and identity of polity by distancing theoretical education and positive law from the moral code of good/bad.

Constitutional theories often engage in prescriptive reconstitutions, general reconstructions and academic legitimations of constitutional law by the authentic self of polity and its foundational values. However, constitutional values cannot be considered society's transcendental foundations normatively constituting it from its outside by the system of education. Constitutional values, rather, are internally generated expectations defining the difference between legitimacy and illegitimacies in both politics and law.

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8   Niklas Luhmann, *Law As a Social System* (Oxford: Oxford University Press, 2004), 445.

9   Niklas Luhmann, *Moralität der Gesellschaft* (Frankfurt: Suhrkamp, 2008), 194.

Ideology, Utopia and Constitutional Values: A Critique of Normative Theoretical Knowledge and Legal Education

Karl Mannheim described ideology as the collective unconscious motives blurring the real state of society and thus stabilising its order. It is part of a typically modern conflict caused by the democratisation of the state and the plurality of political parties which need to justify and systemically explain and validate their struggle and position within the political and social order.

According to Mannheim, ideology replaces theology in its goal of constituting the total and only image of modern society. However, this goal is paradoxical exactly because modern society is defined by the pluralism of its value structure.[10] Modern morally pluralistic and politically democratic societies subsequently consist of the plurality and conflict of ideologies mirroring structural conflicts between those who rule and those ruled by them.

Unlike philosophy with its belief in objective validity and social indeterminacy of knowledge, sociology, according to Mannheim, analyses unconscious social motives connecting the existence of a particular social group with its cultural values, goals and ideological arguments.[11] Modern democratic and pluralistic politics then reveals how different groups and parties represent different ideas and use them to legitimise their political goals and programmes.

Contrasting ideology and utopia, Mannheim expanded his analysis of collective knowledge and beliefs by showing that structural conflicts in modern society are reflected in its total images. The distinction between ideology and utopia is constituted by the opposition between trust and distrust in authority which leads to the constitution of opposing total images of society.

Ideology has the legitimation function because it affirms the existing authority structures and conceals specific gaps in its general legitimacy claims. It imagines society as one integrated polity. On the other hand, utopia has the delegitimation function of unmasking this ideology's surplus value in the symbols of authority. Instead, it imagines a non-existent ideal alternative to the real structures of power.

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10 Karl Mannheim, *Ideology and Utopia* (London: Routledge, 1997[1936]), chap. 2.
11 Ibid., 30.

In this circular communication, ideologies are constantly unmasked by utopias as adding the surplus value of legitimacy where there actually is the lack of belief in authority. Utopias are counterstrategies according to which all social reality constantly falls short of its shared ideals and value foundations.[12] They are images of society in which hierarchical authority is replaced by horizontal structures of collective life fully legitimised by commonly shared values and ideals. The subversion thus paradoxically ends up in the ultimate integration of society which, however, is always yet to come. This struggle requires a new ideology which could claim legitimate authority for such a utopian political project. Utopia is therefore a specific form of ideology critique.[13]

Values include the promise of general validity in special social circumstances and respond to the call for the meaningful universe and human life in it which typically constitutes the system of religion.[14] Modern constitutional philosophies and theories then often fall for this kind of religious and political existentialism looking for the true foundations of collective identity and reasserting it through legality and power.[15] Human existence and authentic forms of its fulfilment allegedly have to be saved by political action and legal normativity by either returning to the past with its authenticity of tradition, or leaping forward by promising the constitution of utopia.

According to this view, constitutions are considered guardians of concrete forms of collective existence.[16] Normative legitimacy of political constitutions is measured by their capacity to represent the authentic existence and true identity of its people. They can be imagined in moral terms as political documents legally defending self-evident truths.[17] They therefore do not have to be further evidenced and can serve as reservoirs of foundational values of polity under the rule of law and natural rights

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12 Howard P. Segal, *Utopias: A Brief History from Ancient Writings to Virtual Communities* (Oxford: Wiley-Blackwell, 2012), chap. 1.

13 Dan R. Stiver, "Renewing the 'Period of Effervescence': Utopia as Ideology Critique," in *Ideology and Utopia in the Twenty-First Century: The Surplus of Meaning in Ricoeur's Dialectical Concept*, ed. Stephanie N. Arel and Dan R. Stiver (Oxford: Lexington Books, 2019), 53–71.

14 Alan H. Goldman, *Life's Values: Pleasure, Happiness, Well-Being, and Meaning* (Oxford: Oxford University Press, 2018), 121–131.

15 Kwame Anthony Appiah, *The Ethics of Identity* (Princeton, New Jersey: Princeton University Press, 2005), 40.

16 Hans Lindahl, "Law as Concrete Order," in *Law, Liberty and State: Oakeshott, Hayek and Schmitt on the Rule of Law*, ed. David Dyzenhaus and Thomas Poole (Cambridge: Cambridge University Press, 2015), 38–64.

17 See, for instance, David A. J. Richards, *Foundations of American Constitutionalism* (Oxford: Oxford University Press, 1989), 27–31.

which have to be promoted and sanctioned even by the system of legal education.[18]

However, objectivity and absoluteness of these constitutional foundations is questioned by the very admission of their drafters that "we" hold these truths self-evident and have to interpret them in particular political and societal contexts.[19] This constituent "we" indicates that our universal truths paradoxically may not be universally self-evident and apply to other polities and their constitutions. Societal foundations of modern constitutionalism thus become a matter of the paradox of universal moral values enforced by particular political and legal agents.

Constitutional Theory and Education as an Apparatus of Values: On Front-Line and Second-Line Knowledge of Law

In modern society, lawyers in general and constitutionalists in particular often take on the role of theologians and prescribe the moral and societal unity of values and principles despite the fact that their operations are constrained by the functionally differentiated system of positive law. Legal theorists appropriate this role by turning theoretical knowledge into a legitimation tool of the system of positive law.[20] They want to believe that their theoretical transvaluation of legal and political values will lead to practical policy changes in the system of positive law.

A number of legal and constitutional theories are but prescriptive specialist attempts at resolving the current crisis of reason, civilisation, politics and human values including those legislated for by political constitutions.[21] They typically invoke specific theoretical versions of self-evident truths in moral principles and foundational values and thus illuminate the function of values in law as much as the value of legality itself.[22] This

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18 Michael Zuckert, *The Natural Rights Republic* (Notre Dame, Indiana: Notre Dame University Press, 1997).

19 Bruce Ackerman, *We the People, Volume 1: Foundations* (New York: The Belknap Press, 1991), 131.

20 Dan Priel, "The Place of Legitimacy in Legal Theory," *McGill Law Journal* 57, no. 1 (2011): 1–35.

21 See, for instance, Michael S Moore, *Educating Oneself in Public: Critical Essays in Jurisprudence* (Oxford: Oxford University Press, 2000).

22 For a critical analysis, see, for instance, John Gardner, "Law's Aims in *Law's Empire*" in *Exploring Law's Empire: The Jurisprudence of Ronald Dworkin*, ed. Scott Hershovitz (Oxford: Oxford University Press, 2005), 207–225, 222–223.

legal theoretical and jurisprudential recourse to the external validation of law by philosophical speculation and anthropological interpretation of values and political ethics calls for a sociological inquiry itself.

The distinction between front-line descriptive and second-line prescriptive knowledge allows for a theoretical observation of legal theories and theorists as leaders of legal reforms and social policy makers, if not ideologues of moral transformations of their constitutional polities. Nevertheless, the classic theoretical distinction between law and morality firmly places the legal system in the positive realm of front-line reasoning and decision-making and separates law from both the transcendental cloud of natural law and the immanent burden of moral traditions and conventions. The legal method is thus separated from morality in all its forms including legal theoretical knowledge and its formalism is assumed to protect legal subjects against the arbitrary use of political power and moral judgments alike.

Legal positivists often criticise both moralist claims that law's legitimacy depends on its conformity to the superior moral norms and sociological claims that the law's form is already predetermined by spontaneous forces of societal evolution. According to the intellectual tradition of legal and political positivism, the modern democratic rule of law means that the people as the political sovereign, rather than moral values and social customs or traditions, is governing itself through the medium of legality.[23]

However, theorists of democracy and popular sovereignty increasingly address the problem of the validity of legal arguments from the perspective of human rights, constitutional principles and political justice evolving at national, supranational and global. Positivists then highlight increasing conflicts between popular sovereignty and the limitation of democratic politics by supra-positive constitutional arguments and principles[24] and expose the danger of political and historical regress caused by the replacement of modern legal formalism by supra-positive moralism embedded in the democratic constitutional state.[25]

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23   Matthew H. Kramer, *In Defense of Legal Positivism: Law Without Trimmings* (Oxford: Oxford University Press, 1999), 254.

24   Geoffrey Marshall, "Positivism, Adjudication, and Democracy" in *Law, Morality, and Society: Essays in Honour of H.L.A. Hart*, ed. P. M. S. Hacker and Joseph Raz (Oxford: Oxford University Press, 1977), 132.

25   Kramer, *In Defense of Legal Positivism*, 113.

For instance, Ingeborg Maus adopts Marcuse's use of Freud's concept of super-ego and his diagnosis of modern industrial society as the "fatherless society" of technocratic domination. According to Maus, the judicial power, however, paradoxically acquires the otherwise disappearing Father image and enjoys almost religious reverence by the public.[26] This return of the Father image in the judiciary of the twentieth century then allegedly represents a regress in modern development and the function of judicial power which historically established its independence through formalist legal rationality and arguments used against traditional legitimacy of patriarchal power.[27]

Maus particularly criticises Dworkin's second-line knowledge and theoretical view that legal and moral judgements are impossible to separate because it assumes a socially and politically privileged position of judges as interpreters of "community morality" who have its better understanding due to their supreme theoretical knowledge. Maus notes that this morality, which is expected to inform such theoretically guided judicial interpretation, is itself a product of judicial decision-making and leads to the dangerous immunisation of legal discourse against any critique.[28] It leads to the "creative" judicial interpretation because of the vagueness of moral concepts and principles incorporated into law.[29]

This positivist critique of theoretical moralism shows that moral values and principles have a dual function in the system of positive law. They select between legitimate and illegitimate laws by introducing the category of "just law" while protecting morally integrated social domains from the legislated laws. In this dual sense, morality becomes positive law's boundary. When legal arguments adopt moral reasons as their foundations, they do not need democratic legitimation. Instead, they use initially external morality as the positive law's internal formula of self-legitimation.

If, as Dworkin states, "jurisprudential issues are at their core issues of moral principle,"[30] morality becomes positive law's basic norm and formal legality gets replaced by substantive moral values. Supra-positive moral principles thus paradoxically weaken the limits of both the

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26 Ingeborg Maus, *Justiz als gesellschaftliches Über-Ich: Zur Position der Rechtsprechung in der Demokratie* (Frankfurt: Suhrkamp, 2018), 17–19.

27 Ibid., 32.

28 Ibid., 21.

29 Ibid., 84.

30 Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Massachusetts: Harvard University Press, 1977), 7.

state and legal regulation because, instead of embracing a notion of legal right, they can justify it by appeals to the social and common good.[31] The recursive moral grounding of positive law ends up with the increasing power of state institutions and apparatus. The de-differentiation of democratic legitimation and moral foundations of law leads to the weakening of social control by political decision-making because the moral argument can be easily abused as simulating the democratic argument.[32]

Substantive values operating as legal foundations and ultimate legitimation of the system of positive law show the general modern tendency of replacing formal and general legal rules and reasoning by social justice and regulations promoting specific interests and particular needs. It thus represents yet another example of not just the attack on abstract and generally applicable legal rules but a direct threat to the very idea of democracy as self-government of the people by the laws. According to this critique of moral fundamentalism in jurisprudence and legal theory, Montesquieu's early modern description of despotic government as that in which there is no rule of law, because a despot is the maker, judge and executioner of laws, still applies in our complex postmodern society.[33]

Democracy and the Paradox of Value Pluralism

The monistic image of constitutional polity governed by judges or any other agents as guardians and educators of the ultimate common good and true values represents a direct threat to the pluralist notion of an open democratic society. Since Plato's *Republic*, those who are in possession of the ultimate truth and common good have also arrogated to themselves the right to rule and to determine not only how society is to be organised and managed, but also how individuals are to be educated and live their lives and what culture society ought to be cultivating and developing.[34]

Constitutional theories of value pluralism, therefore, represent a critique of these monistic images of society and draw on the procedural model of politics in which legitimacy does not rely on the capacity to

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31   For a particularly strong critique, see Brian Leiter, "The End of the Empire: Dworkin and Jurisprudence in the 21st Century" *Rutgers Law Journal* 36 (2004): 165–181.
32   Maus, *Justiz als gesellschaftliches Über-Ich*, 227–229.
33   Ibid., 85.
34   Karl Popper, *The Open Society and Its Enemies*, *Volumes 1 and 2* (London: Routledge, 1945).

eradicate "false" values and opinions. The point of democracy is not to exact any obligation to stamp out other values or opinions.[35] On the contrary, democracy gives us the opportunity to refute and reject opinions in a civilised manner by engaging in a free debate. In short, *the societal constitution of liberal democracy depends on the paradox of value pluralism as a value itself*.

In the 1970s, the German constitutional judge and legal philosopher Ernst-Wolfgang Böckenförde formulated the basic paradox of constitutional democracy in the following phrase: "The liberal secularised state lives by presuppositions that it cannot itself guarantee."[36] The *Böckenförde Dictum* means that the conditions of the functioning of a constitutional and democratic state lie outside its power apparatus and positive law. They are a matter of values and ethics which cannot be legally enforced and politically guaranteed.

The other premise of an open democratic society, however, is the plurality of values. This may seem contradictory to Böckenförde's formula, yet value pluralism paradoxically can be considered a value and presupposition of liberal statehood itself, especially because it is politically less dangerous for freedom than the monistic notion of truth and the common good.[37]

Values are considered fundamental yet are subject of social change and political volatility.[38] Understanding modern society's plurality of values, their differences, conflicts and transvaluations, and the impossibility to define some values as true and others as false, is a starting point of the principle of tolerance which is the *conditio sine qua non* of a liberal society and its constitutional democratic state. Value pluralism actually functions as a defence against the extremist value monism, assuring its adherents that they are the exclusive guardians of human values and truth and that any crimes committed in the name of these values, therefore, are already to be praised as higher acts of humanity before they even are committed.

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35 Ota Weinberger, *Law, Institution and Legal Politics: Fundamental Problems of Legal Theory and Social Philosophy* (Dordrecht: Springer, 1991), 128.

36 Ernst-Wolfgang Böckenförde, *Staat, Gesellschaft, Freiheit: Studien zur Rechtsphilosophie, Staatstheorie und Verfassungsgeschichte* (Frankfurt: Suhrkamp, 1976), 60.

37 See, for instance, George Crowder, *Liberalism and Value Pluralism* (London: Continuum, 2002); William Galston, *Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice* (Cambridge: Cambridge University Press, 2002).

38 Ronald Inglehart*, The Silent Revolution: Changing Values and Political Styles Among Western Publics* (Princeton, New Jersey: Princeton University Press, 1977).

Political constitutions paradoxically protect both value pluralism and principles and values typically defined as constitutional rights and freedoms. Constitutions couple legal and moral arguments and thus make the validity of law inseparable from the possibility of responding to the most complex moral problems, dilemmas and value claims.[39] However, these allegedly fundamental constitutional values are subject to constitutional interpretation and therefore evolve and change according to the changing modes of legal reasoning and interpretation.[40]

The pronounced unity of law is challenged by the plurality of values and moral diversity. Theories and philosophies of political and social consensus and legal monism are so general and abstract that they can hardly provide a formula for the legal enforcement and resolution of the conflict and clashes of moral values.[41] Substantive value elucidation of law escapes the internal logic of legal reasoning and legality remains self-enclosed as the only source of its validity. Preserving this plurality while adjudicating the normative unity of law and legal resolution of moral conflicts then becomes a central problem of both constitutional adjudication and its theory.[42]

Values in Legal Theories and Education

Values are rooted in a metaphysical search for the meaning of our existence and position in the world. While societal norms restrict the possibilities of social action, values increase it as experiences of "certainty independent of cognitive arguments."[43] Rather than simply defining constitutive moral duties, values establish different degrees of desirability and meaning of human action between good and bad. The highest goal of modern individuation, therefore, is possible to harmonise with a social utopia of valuable existence.

Values are pervasive in all social systems despite their lack of institutional formalisation, enforcement and self-reference through official

39 Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton, New Jersey: Princeton University Press, 2002).

40 Weinberger, *Law, Institution and Legal Politics*, 119.

41 For the ethical interpretation of legal monism, see Paul Gragl, *Legal Monism: Law, Philosophy, and Politics* (Oxford: Oxford University Press, 2018), 291.

42 Wojciech Sadurski, *Moral Pluralism and Legal Neutrality* (Dordrecht: Kluwer, 1989), 89–131.

43 Hans Jonas, *The Genesis of Values* (Cambridge: Polity Press, 2000), 52.

authorisation.[44] Judges and other legal officials as well as legal scholars and teachers claim to be their guardians as much as guardians of legality, yet the question of the origins and genealogy of values hardly can be answered by their legal authority.[45] A belief that values should be justified and publicly discussed, taught through the system of education and legitimised in society does not mean that this society actually constitutes its values through justification and deliberation.

While the transvaluation of values and their change can be evaluated and referred to as good or bad itself, there is a more general problem with values as societal foundations and guardians of constitutional integration. It is closely related to the modernisation of society and already was described by Emile Durkheim as *anomie* – a loss of values and meaningful existence.[46]

Anomie is the negative absolute because it is always considered bad and cannot be contextually evaluated as good or bad for society and individuals. Durkheim's warning against damaging consequences of modern anomie are matched by the Marxist revolutionary promises to save humanity from its alienation in capitalist society or conservative lamentations of the cultural crisis echoing Oswald Spengler's "decline of the West." Durkheim's theory of modernity as the permanent crisis of values and meaning thus represents a sociological response to the evergreen theme of the crisis of civilisation addressed by so many philosophers, political leaders, moralists and ideologues of all kinds and political colours.[47]

Durkheim's theory of anomie and other sociological and moralist critiques of the decline and absence of values argue that moral principles and values operate as society's *foundations* and reservoirs of meaningful social existence.[48] However, the very process of their transvaluation turns them into *fluid* expectations of what is considered socially valuable and

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44 Webb Keane, *Ethical Life: Its Natural and Social Histories* (Princeton, New Jersey: Princeton University Press, 2016), 180.

45 In this context, Andrei Marmor, for instance, argues that the conflict between legal positivists and non-positivists is about the conditions of legal validity. See Andrei Marmor, "Legal Positivism: Still Descriptive and Morally Neutral," *Oxford Journal of Legal Studies* 26, no.4 (2006): 689.

46 For the concept of anomie, see William Outhwaite, ed., *The Blackwell Dictionary of Modern Social Thought* (Oxford: Blackwell, 1993), 17–19.

47 For the philosophical popularity of the idea of decline of the West, see, for instance, Arthur Herman, *The Idea of Decline in Western History* (New York: The Free Press, 1997).

48 For further details of Durkheim as a sociologist and moralist, see particularly Stephen Turner, ed., *Emile Durkheim: Sociologist and Moralist* (London: Routledge, 1994).

can be challenged by individuals and groups only with high societal risks of being labelled bad people or communities.[49]

Values are expected to embed society in the order of good and thus guarantee and justify its meaningful existence. Nevertheless, every value, rather than operating as a solid fundament of societal institutions and their ultimate point of reference, is an outcome of societal evolution. Society thus permanently and immanently constitutes its values which, paradoxically, are expected to be its transcendental foundations.

Societal values including those operating in the systems of positive law and legal education borrow the distinction between good and bad from the system of religion. In the same way, values also draw on the religious distinction between transcendence and immanence and thus respond to the specific call for the meaningful existence of the universe and human life.

Values make a lot of sense, but no foundations. Modern society cannot exist without values, yet these cannot guarantee its existence and evolution. This society is typical of both the abundance and absence of moral values and ethics which are invoked every time there is a problem of social steering in different systems, such as legal ethics, political ethics, business ethics, corporate social responsibility, environmental ethics, bioethics etc.

Values are expected to deal with societal risks, yet they also bring new risks, conflicts and moral panic. They validate both morality and immorality as moral or immoral leading to the distinction between moral immorality and immoral morality.[50] Values, therefore, cannot function as invariant structures of system maintenance. Instead of culturally stabilising and integrating the social system, they are contingently constituted as part of the system's operations and evolution.

In the specific context of constitutional law and theoretical education, foundational values are codified by legal constitutions and even get full doctrinal support, yet which general values are going to be enforced as constitutive and legally binding depends on specific court judgements, executive decisions and legislative acts and remains subject of political and theoretical contestations.[51] Is there a higher meaning in political constitutionalisation? Does modern society have its specific interplay

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49 Zygmunt Bauman, *Liquid Modernity* (Cambridge: Polity Press, 2000), 19–22.

50 Michael Stocker, *Plural and Conflicting Values* (Oxford: Clarendon Press, 1990), 37–50.

51 Mark Tushnet, *Taking the Constitution Away from the Courts* (Princeton, New Jersey: Princeton University Press, 1999), 96.

of transcendence and immanence like the king's duality of symbolic and physical body in medieval times? Why is it politically constituted as democracy? Why do human rights condition its legitimacy? Is the political form of the democratic rule of law a constituent or constituted part of this societal self-constitution? Does the variety of post-national political and social constellations involve state and non-state forms of political self-determination and how do they contribute to the general self-description of society?

These are questions overlapping different sociologies, philosophies and theories of constitutionalism. When Jean-Jacques Rousseau claimed that operations of political institutions could be suspended to preserve the existence of a polity[52] and that no political institutions could be considered legitimate if they contradict human nature,[53] he asserted that the constitution is more than institutions and rules, and the ultimate sovereign of any legitimate polity is human nature and its education. This claim already signifies a shift from the constitution as a written document to the constitution as a living body politic which is still echoed in the basic socio-legal distinction between law in books and law in action or living law.[54]

For instance, the theoretical conflict between originalists and organicists[55] is not just a conflict of values or another example of the paradigmatic tension between formalist and realist jurisprudence.[56] It covers the most general issues of the legal method of interpretation and application of norms.[57] Nevertheless, it also shows the paradoxical legal operationalisation of values as prescriptive constitutional foundations despite their factual societal fluidity and contingency.

Constitutional originalists thus insist that constituent values and meaning had been formulated at the moment of constitution-making and the law's principal job is to preserve them despite knowing that any such retrospective interpretations are just a matter of speculation about

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52 Jean-Jacques Rousseau, *'The Social Contract' and Other Later Political Writings* (Cambridge: Cambridge University Press, 1997).

53 Ibid., 146–150.

54 For the constitutional context, see, for instance, David A. Strauss, *The Living Constitution* (Oxford: Oxford University Press, 2011), 11.

55 Bruce Ackerman, "The Living Constitution. 2006 Oliver Wendel Holmes Lectures," *Harvard Law Review* 120, no. 7 (2007): 1801–1803.

56 See Brian Tamanaha, *Beyond the Formalist-Realist Divide: The Role of Politics in Judging* (Princeton, New Jersey: Princeton University Press, 2010).

57 Duncan Kennedy, *A Critique of Adjudication* (Cambridge, Massachusetts: Harvard University Press, 1998).

the original understanding of the text by its authors and members of the respective constitutional polity at the time of its making.

Against this view, advocates of constitutional activism adopt the sociological concept of "the living constitution"[58] to argue that the constitution's text has to be interpreted in the context of the present times, values, meanings and pragmatic intentions.[59] The living present establishes what is constitutionally viable and valuable while the past is declared the dead-letter law. Activists thus enforce absolute constitutional values and normative frameworks despite accepting the relativist view that future generations of lawyers, judges and citizens can invalidate them if different values and principles start evolving and prevailing in the living constitution.

However, the constitution of values is not left to either judges and politicians, or theorists and scholars pretending to act as a moral compass and educators of the whole society. It is a matter of historical and societal contingency and there is no escape from the self-referential question of value of the valuation of societal facts and the distinction between their good and bad nature. This contingency is highlighted by a sociology of constitutional values.

Towards a Sociology of Constitutional Values and Education

The transformation of the particular and immanent into the universal and transcendent was already captured by Friedrich Nietzsche in his famous formula of transvaluation of values. In the context of political and legal history, Ernst Kantorowicz, in his seminal book *The King's Two Bodies*, elaborated on this dynamic interplay of transcendence and immanence when he examined the concept of *the corpus mysticum* and introduced an alternative to Schmitt's political theology and decisionist theory of law and sovereignty.

While Schmitt argued that sovereignty of modern statehood was an extension of anthropomorphic images of authoritative structures and executive powers outlined by the medieval and early modern theology, Kantorowicz analysed *the corpus mysticum* and demonstrated how this

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58 Ackerman, "The Living Constitution."

59 Jules L. Coleman, *The Practice of Principle: In Defence of a Pragmatist Approach to Legal Theory* (Oxford: Oxford University Press, 2001).

juridical and theological concept of a mystical body actually operated as a fiction enabling to legitimise immanent structures by the transcendental validation beyond the limits of concrete time and space and executive power.[60]

Applying this general semantic operation to the modern functionally differentiated society, it can be stated that values are immanently defined by different social systems. Nevertheless, as Darrow Schecter notes, "incommensurable systemic codes first came into existence as incommensurable value systems and as the result of conflictual symbolic communication."[61] These conflictual and incommensurable forms of societal validation paradoxically lead to a differentiated system of social values which, though immanent and system-specific, evaluates society and its particular institutions from the transcendental perspective. Instead of internally constituted and limited legal, educational, market and any other systemic evaluations and transvaluations, these social values, while primarily constituted and communicated through specific social systems, are treated as self-legitimising general constitutional foundations of society. Systemic immanent values thus achieve the transcending status of the common good of society.

A sociological inquiry into constitutional values and positive law requires to externally observe not only legal normativity but also all non-positive political, moral, economic, scientific, technological and all other societal normative and epistemic interventions in the system of positive law and legal doctrines or jurisprudence.[62]

Second, a sociological theory of constitutional norms and values must involve a study of distinctions and conceptualisations of law as a system distinguishing between the right and wrong human conduct and constituted by individuals as "norm-users"[63] in their interaction and intersubjective recognition of normative patterns. This sociological theory needs to move beyond explanations of the distinction between spontaneity of societal normative orders and formality of officially authorised legal institutions which describe individuals as interacting morally autonomous

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60   See, for instance, Jennifer Rust, "Political Theologies of the *Corpus Mysticum*: Schmitt, Kantorowicz, and de Lubac," in *Political Theology and Early Modernity*, ed. Graham Hammil and Julia Reinhard Lupton (Chicago, Illinois: University of Chicago Press, 2012), 104.

61   Darrow Schecter, *Critical Theory and Sociological Theory: On Late Modernity and Social Statehood* (Manchester: Manchester University Press, 2019), 196.

62   Niklas Luhmann, *Law as a Social System* (Oxford: Oxford University Press, 2004), 5–6.

63   Neil MacCormick, *Institutions of Law: An Essay in Legal Theory* (Oxford: Oxford University Press, 2007), 20, 36, 245.

subjects constituting such orders in their ordinary practical life. Instead, the theory has to address these forms of intersubjective experiences and understanding as more complex forms of societal expectations of conduct in which understanding, consensus and conformity must be taken into account as much as confusion, dissent and deviance.

Third, this theoretical shift requires abandoning the concept of constitution as a consensually grounded and gradually evolving document empowered and enforced by the collective will of the people as its constituent subject knowledgeable and educated in true and correct constitutional values. Although it is a matter of fact that constitutions are getting more stable if they last longer, their legitimacy is not necessarily increasing with the passage of historical time turning them from fresh political documents into shared societal traditions. Constitutional traditions can be considered illegitimate as much as utopian projects of future constitution-making.

Instead of turning societal consensus and dissent into absolute values and exclusive procedures of legitimation, it is the opposition and difference between consensus and dissent that drives societal evolution and, apart from other societal semantics, defines the operative possibilities and legitimation potential of the systems of positive law and politics.[64] There is no privilege for either consensus or dissent politics and no political or constitutional subject can be expected to evolve out of them. There is no chance to return to anthropological, ethnocentric and logocentric politics of overlapping or any other consensus as much as it is useless to romanticise the heroic struggle of dissidents in any political regimes with or without the rule of law.

Avoiding the *Furor Metaphysicus* in Constitutional Values

The initial comment on Luhmann's call for an ironic ethic, which avoids the promise of constituent values guaranteeing the authentic self and self-aware rational identity of polity can be extended to the realm of constitutional theory and education. Instead of searching for constitutional reflexivity or the lifeworld's reservoir of meaning and positive values

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64 For general comments on the opposition between consensus and dissent, see Niklas Luhmann, *Social Systems* (Stanford, California: Stanford University Press, 1995), 81.

restricting the factual power of social systems and externally legitimising them beyond the limits of society, it is important to be critical of the very concept of political subjectivity and acknowledge the paradoxically liberating effects of systemic alienation and operationalisation of values.[65] There is no legitimation coming from the lifeworld's authenticity contrasted to the systemic rationality. No plan of fixing the economic base can save us from illegitimacies fluctuating in the societal superstructure. No eternity clauses and fundamental values inscribed in constitutional documents can guarantee political, legal and societal stability, continuity and persistence.

It is actually the recognition of functional differentiation and heterarchical systemic plurality of modern society that lead to the rejection of the fact-value dichotomy and bivalence-driven models of legitimation. This rejection opens the possibility of their replacement by systemic polyvalence in which political, legal, educational and other subjects of different social systems "appear to be something between a local hero and a local loser."[66] This systemic rationality and functional differentiation puts even a sociology of constitutionalism beyond good and evil and replaces this binary moral coding, so popular in constitutional theories and education, with an ethics of complexity resigning to the search for the absolutes, eternity clauses and essences in our political and legal reality.

This ethics, described in the introduction as "ironic," praises societal polyvalence and distances itself from what Peter Sloterdijk described as "the *furor metaphysicus*"[67] – the metaphysical urge to constitute absolute values in societies and their histories. Legal positivist criticisms of supra-positive moral and political principles and fundamental values of the legal system can be theoretically reassessed and further expanded by this post-metaphysical methodology of sociological positivism.

A sociology of constitutionalism, which includes constitutional values and education, thus needs to abandon the simple distinction between formal and substantive legitimacy of law and analyse more general processes of the self-constitution of modern society, including its systems of

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65 Gunther Teubner, "Alienating Justice: On the Social Surplus Value of the Twelfth Camel." in *Law's New Boundaries: Consequences of Legal Autopoiesis*, ed. Jiří Přibáň and David Nelken (Aldershot: Ashgate, 2001), 28.

66 Peter Sloterdijk, "Luhmann, Devil's Advocate: Of Original Sin, the Egotism of Systems, and the New Ironies," in *Not Saved: Essays after Heidegger* (Cambridge: Polity Press, 2017), 49, 78–80.

67 Ibid., 75.

law and politics and societal forces behind self-validating legitimation procedures of these systems. Critically revisiting Mannheim's sociology of knowledge and the concepts of ideology and utopia, it is then possible to move beyond the "truth/falsity" distinction and the Habermasian notion of "background knowledge"[68] of veritas as auctoritas safeguarding the general meaning and ethical validity even in highly complex and functionally differentiated societies. Constitutional ontology is thus replaced by the sociological analysis examining the self-constituent construction of internal unity of social systems and their structural coupling and societal expansion from one to another system such as positive law and education.

Constitution of the collective self, in particular society as polity which can hold universal truths self-evident, may be the first political act, but it is not just a matter of politics or law and education because this self, to sociologically paraphrase Abraham Lincoln's famous definition of democracy as power "of the people, by the people, for the people," is constituted *in society, by society and for society*.

Societal constitution as functional differentiation and self-constitution of specific subsystems of modern society represents a challenge particularly for legal and political theories and philosophies ascribing the fundamental role and importance to the legal normativity and political power or moral principles and educational expectations behind them. A contemporary sociology of constitutionalism, therefore, reformulates the question of what is politically self-constituted in society as a question of how this self is jointly constituted by the systems of positive law, politics and evaluative critical education.

Sociological inquiries into constitutional values and their education do not follow normative theories and philosophies of constitutional *subjects* and their will and reasoning. Instead of political existentialist claims that there are real political forces and constituent power of collectivities "sharing destiny," such as modern nations, a sociology of constitutionalism focuses on the societal constitution of these general forms of self-description and self-reference of society and their internalisation by constitutional law and legal education. This task also involves addressing the problem of constitutional *objects* of self-constituted organisations, knowledge regimes, educational programmes and networks of contemporary European and global society.

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68   Jürgen Habermas, *Between Facts and Norms* (Cambridge: Polity Press, 1996), 22.

Universities as Autonomously Individuated Systems

Jimmy Lewis-Martin

Universities in many contemporary liberal capitalist societies have not been immune to the process of commodification. This is most evident in the US, where attending a private institution requires either substantial prior means or accepting unduly burdensome debt. Though to a lesser extent, the issue is also evident in other countries. In Australia, for instance, although student debt for citizens is not quite as life-altering as in the US, students are still often treated as customers and courses as products. Often, if a course does not have "enough" students sign up, the course does not run that semester, depriving the students who did sign up of being able to learn about a topic that they might be genuinely interested in. This, in turn, results in the homogenisation of available courses around "popular" topics. The commodified university environment also has a detrimental impact on academic faculty and their research. "Publish or perish" is a well-understood reality in the academic world and leads to a glut of superficial research, as it creates a need to keep up with popular topics and invest in cottage industries rather than doing research that might be genuinely compelling and boundary-pushing. Researchers are also pressured to carve what could be single works into as many different papers as can be managed. It does not seem too great a stretch to suggest that the replication crisis in psychology was a result of the pressure on researchers that they *produce* something, anything at all, rather than publishing when they have something well-tested to publish. This practice is evidently harmful, and yet there seems to be no escape.

I will argue that an enactivist understanding of group agents like universities explains why this is the case and is well situated to expound on the differences between universities in different environmental contexts.

Contrary to one common-sense view that the detrimental functioning of institutions is the result of bad decisions made by greedy or irrational individual humans, the enactivist account holds that a group agent, like all agents, is a "*system doing something by itself according to certain goals or norms within a specific environment*."[1] Agents, then, are (a) individuals with (b) certain norms that (c) act asymmetrically on their environments. In other words, the group itself – the university – is the target of our descriptions and ascriptions of normative activity, rather than the particular people who make up that institution at any given moment.

I will specify the first two of these conditions, called the individuality and normativity criteria respectively. I will argue that something is an individual if it is an operationally closed, precarious system. A self-individuating system's normativity is given by its conditions of possibility, i.e., it is necessarily normatively oriented toward self-maintenance. A group agent, on this account, is just a physically discontinuous agent. Universities are an example of just such a system.

The argument herein assumes realism about group agency. Christian List provides a strong argument for this. He argues that ascribing agency to certain groups is indispensable for explaining their behaviour, hence we are justified in assuming that at least some groups really do have agency unless we are given evidence to the contrary.[2] The actions that occur under the auspices of the university are inexplicable without ascribing group agency to them, and so I assume that they really are group agents.

Individuality

To be an individual in the sense intended here is to be distinct from one's environment and from other individuals. Importantly, one distinguishing feature of agential systems is that they are self-individuating systems. This follows from the fact that agency is something a system *is*, rather than being something a system is granted or is judged as. The agent must, in some fundamental sense, be an individual on its own terms, rather than being an "individual" because it is easy or convenient for us

1   Xabier Barandiaran, Ezequiel Di Paolo, and Marieke Rohde, "Defining Agency: Individuality, normativity, asymmetry, and spatio-temporality in action," *Journal of Adaptive Behavior* 17, no. 5 (2009): 369.
2   Christian List, "Group Agency and Artificial Intelligence," *Philosophy and Technology* (2009): 4, https://doi.org/10.1007/s13347-021-00454-7/.

as observers to treat it as such. According to Ezequiel Di Paolo and Evan Thompson, the concept of *autonomy* provides the criteria for the self-individuation of bodies where a body, in this context, is not "constituted exclusively by its biochemical or physiological processes."[3]

To be autonomous, a system must be both operationally closed and precarious.[4] An operationally closed system is one whose constitutive processes collectively and recursively produce and sustain each other.[5] It is precarious if those processes would fail without the enabling relations of the operationally closed network.[6] A kidney, for instance, cannot persist outside the body for long. Although operational closure and precariousness are somewhat technical concepts, the enactivist notion of autonomy still relates to the common understanding of autonomy as self-governance. An autonomous system persists in virtue of its own activity.

An operationally closed system still interacts with and requires its external environment. Nevertheless, the operationally closed system is distinct from its environment insofar as the system's own processes determine what counts as normative environmental conditions for itself.[7] As Di Paolo and Thompson note, the Sun acts as an enabling condition for plants since it is required for photosynthesis, but the Sun itself is indifferent to the presence of plant life.[8] So, the Sun enables the processes of the plant while not itself being a part of the operationally closed system since it is not in turn enabled by the plant. Similarly, parasites are enabled by the agents they are parasitic on without the other agent being enabled by the parasite. This concept of operational closure allows us to accurately determine precisely which processes belong to the agential system we are interested in while also mapping out the processes the system is reliant on that do not belong to it. That is, we can determine what counts as the environment for a given agent and figure out how the two interact.

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3   Ezequiel Di Paolo and Evan Thompson, "The Enactive Approach," in *Routledge Handbooks in Philosophy: The Routledge Handbook of Social Cognition*, ed. Lawrence Shapiro (London: Routledge, 2014), 69–72.

4   Ibid., 69.

5   Ezequiel Di Paolo, Thomas Burhmann, and Xabier Barandiaran, *Sensorimotor Life: An Enactive Proposal* (Oxford: Oxford University Press, 2017), 112.

6   Di Paolo and Thompson, "The Enactive Approach," 72.

7   Ibid., 71; Di Paolo, Burhmann, and Barandiaran, *Sensorimotor Life*, 114.

8   Di Paolo and Thompson, "The Enactive Approach," 71.

The importance of precariousness is that it allows us to distinguish operationally closed but ultimately inactive systems from genuinely agential systems. According to Di Paolo and colleagues, a crystal is operationally closed since "chemical interactions lead to the spontaneous growth of a clearly identifiable entity, which thereafter is maintained over time."[9] But once the crystal has formed, there is no active maintenance in the structure of the crystal. It is not an active system, and so should be excluded from the pool of systems that we refer to as "agents." Importantly, as Wayne Christensen and Mark Bickhard note, not all processes are equally vital to the functioning of the agential system as a whole.[10] Myopia is relatively easy to compensate for or even to live with assuming the relevant technology is not available. Agents are adaptive systems with particular capacities that exist in particular environments, and they will pursue their normative ends as best they can, given the interactive possibilities present in the agent-environment coupling. A malfunctioning heart is much less forgiving, however, because the heart enables almost all other processes in the body, meaning the whole agent will fail without the heart process.

Normativity

As with an agent's individuality, that agent's normativity must also be self-determined. The organisational approach maintains that a system's norms are given by that system's present structure or organisation. Specifically, the normativity of an agential system is given by that system's conditions of possibility, or the system's capacity to be the kind of system that it is in the environment it is in. As Georges Canguilhem put it: "Normative, in the fullest sense of the word, is that which establishes norms."[11] The idea is that norms can be derived from a system's present structure on the basis of what makes it possible for it to persist. This necessarily includes the environmental conditions the system finds itself in, as Canguilhem was apt to point out: "Taken separately, the living being and his environment are not normal: it is their relationship that makes them

9   Di Paolo, Thompson, and Barandiaran, *Sensorimotor Life*, 116.
10 Wayne Christensen and Mark Bickhard, "The Process Dynamics of Normative Function," *The Monist* 85, no. 1 (2002): 20.
11 Georges Canguilhem, *The Normal and the Pathological*, trans. Carolyn R. Fawcett (New York: Zone Books, 1991), 126–7.

such."[12] Normativity, in other words, is a fundamentally interactive concept. It arises via the interaction of a particular, autonomous system and the environmental conditions in which that system is aiming to self-maintain. That said, depending on the nature of the system in question, it will be more or less reliant on its specific environment. Certain systems are more capable of constructing or influencing their environments to their own needs.[13] Others will themselves be more flexible or resilient. Humans are a good example of both. In an environment with little food or limited access to water, we can construct ways of attaining and storing more of each. Likewise, we are not reliant on any one specific food to survive, as opposed to an animal like koalas or pandas that is specially adapted to eating just one kind of food.

Just as the normativity of the whole system is given by its holistic conditions of possibility, so too are the parts of the system functionally normative insofar as they contribute to the viability of the present system as a whole. Practically, then, we can identify the parts of the system, consider what those parts do, and then determine the normativity of the system as a whole by considering what the parts together are functionally oriented toward.

Group Agents

The account of agency I have just argued for applies easily to groups. Despite being physically discontinuous, many groups still involve a series of interconnected, co-sustaining processes oriented at achieving some particular end or set of ends. A university, for example, is an institution that is constitutively oriented toward education and research. This is evident in the fact that this is the purpose for which their physical buildings are created, the roles of administrative staff are oriented toward functional teaching and research processes, and so on. The key fact that differentiates this enactivist approach to understanding group agents in general and universities in particular is that it locates the key activities and behaviours that we are concerned with in the structures of the institution itself rather than in the laziness or greed or stupidity of individuals. In so doing, I will argue here, we are better situated to

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12   Canguilhem, *The Normal and the Pathological*, 143.
13   Christensen and Bickhard, "The Process Dynamics of Normative Function," 11.

understand and therefore address various problems present in our educational institutions than views that take the alternative approach.

Let's begin with the commodification of the contemporary university. Universities are by definition institutions of higher education and research. If we observe the behaviour of a particular group agent and discover that it is not at all oriented toward these things, then we are likely mistaken about the identity of the group in question. If the system instead relies for its self-maintenance on turning a profit by selling products or producing propagandistic videos on YouTube, it's more likely a business than a university. Still, universities require money to run. Staff need to be paid, buildings need to be built or repaired, advertising needs to be done, and so on. Money is required for the conditions of possibility of the university to be met. Given the environmental conditions that many universities exist in, commodification has been an unavoidable consequence.

This commodification drives much of the felt reality of the publish or perish model for professional academics. By employing quantitative measures such as the number of citations or publications an academic has as a stand-in for the quality of their work, universities are able to improve their own reputations and generate an air of prestige to those who are either unable or unwilling to assess the genuine quality of the work done. This, in turn, attracts students and funding bodies, which feeds the university with the capital it requires to function and, ideally, to expand. The pressure felt by academics comes in the form of employment and funding opportunities, among other things. Combine this with the further fact that there are more doctoral students than there will be academic positions for those students, and we end up with an environment, consistent with the rest of the capitalist world, in which one's performance according to various quantitative rather than qualitative measures determines one's likelihood of attaining or maintaining employment and where failure to perform sufficiently well brings with it the constant threat of being replaced by someone else, since there is always a surplus of potential labourers.

In other words, the function of an academic is to serve the normative interests of the university, which are determined by its capacity for self-maintenance. The interests of the academic are unimportant to the group itself, except insofar as they contribute to the group's own goals. In this sense, then, the pressures placed on academics to publish exist purely because they are in the interest of the university, even as these interests drive directly against the interests of academics and academic

research. But it does not matter to the university as an institution that scientific research is falsified,[14] or that researchers are putting aside work they believe might be genuinely impactful or useful in favour of work that is likely to be published and cited.

Notice, however, that there is no individual or group of individuals that we can easily point to and blame. The academics who engage in these practices are not entirely at fault. They simply have little choice if they wish to maintain their academic careers. The flaws are built into the very structure of the university as it interacts with the capitalist systems around it. We may still rightly hold individuals responsible for their participation in collective actions, especially if those actions are immoral or unjust rather than harmful predominantly to the group members. Nevertheless, the enactivist perspective highlights the structural embeddedness of institutional problems and the necessary difficulty we will face in addressing these problems. If we were hoping for easy solutions, this is no doubt a daunting reality. But, by identifying the genuine root of the issue, we become better placed to address it.

It is also a virtue of the enactivist theory of agency that it explicitly embeds the agent in its environment and thus defines the agent's norms as being environmentally dependent. What an agent needs to do to thrive is always going to be contextual. For now, it is obvious that businesses aim primarily to make a profit. However, under entirely alien economic circumstances, those same businesses will not simply continue trying to make a profit – they will adapt to what is required in the new context. This notion of normativity in combination with the enactivist picture of autonomously individuated group agents allows us to better understand the activities of groups due to their environmental conditions and, in theory, to manipulate those conditions to achieve the results we want. Because possible interventions can be identified, there is a potential to empirically demonstrate the utility of the enactive account of group individuality through manipulation of these environmental conditions in models or by looking at these conditions over time in long-term economic studies.

The university's environmental enabling conditions likely include various sources of money such as government funding, research grants, and student fees, the physical space the university inhabits, the laws that

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14 We might worry that falsified research will negatively impact a university's reputation. However, this assumes that the research will be found out and, furthermore, that the blame will be placed at least partially on the university rather than squarely on the academic(s) involved.

constrain what can and cannot be researched, how staff can be treated, and so on. Ideally, after we have mapped out some or all of the university's environment, we can then consider how to effect change. Laws might be implemented to change how the quality of research is measured, for instance, so that quantity of output is viewed as less important than, say, a value rating provided by one's academic peers. Needless to say, any method will have its flaws, but understanding that interventions at the environmental level have this kind of impact shifts our focus away from fundamentally ineffective individualised interventions and highlights the necessity of collective action targeted at systemic change.

Whatever our intent, serious change cannot result purely from the actions of some members of the university, because their position is precisely one of functional constraint. The enactivist account tells us that the university itself is a system structured to self-maintain in the environmental conditions it is in, and the treatment of academic staff serves that end. Staff might collectively take action, but this would require the support of even *potential* staff, i.e., the unemployed or casually employed but aspiring full-time academics. Hence, even if change is predominantly driven by demands internal to the institution, it requires external solidarity. If we wish to alter the normative structure of the institution itself, then necessarily the environment that group agent finds itself in must be changed completely. A shorter working day, while undeniably a good thing for the worker, does not eliminate the conditions of their servitude. It only makes it more bearable. So, effecting change is most likely to succeed if it comes from the environmental constraints and affordances of the system. That said, as the environment influences the system, so too does the system recursively influence its environment to better sustain itself. We should, unfortunately, expect ideological or financial commitments on the side of maintenance rather than change.

To conclude, I will discuss briefly how two other prominent accounts of group agency fare in the face of similar problems. The most prominent account of group agency is Christian List and Philip Pettit's. They hold that an agent is a system with motivational states, representational states, and the capacity to act on those states.[15] On this account, the motivations of a given agent are only explicable on the basis of that agent's behaviour. This is a fine starting point, but the enactivist account

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15 Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011), 20.

allows us the potential to take this understanding further. We can still get a decent idea of the group's norms via its behaviour, but on the enactivist view we can ideally develop an outline of that agent's environmental interactions and requirements which would allow for greater predictive power than behaviour observation alone. We can model the university and see what it does or aims to do as its primary constitutive activity. Commodified universities are not, for example, primarily concerned with making a profit for its own sake the way that a business might be. Instead, they have become commodified entities because of the environments they exist in. Using the enactivist account of agency, we could try to predict how universities would respond to certain legal or economic changes. Again, this requires further empirical research, but the enactivist view provides an operational account of agency to build that research on.

Furthermore, List and Pettit's account can never explain *why* an agent has particular motivations, especially when those motivations seem to contradict the norms of the individuals who make up that agent and the norms of the individuals that agent is supposed to serve. How the pressures placed on academic staff arose in universities is a mystery if we think of group agents as and their decision structures as made up strictly of people acting in particular roles. There must be some other forces at play, such as the group's own normative ends dictated by its conditions of possibility. The individuals who serve the agent are nothing but material for it, just as our own cells are nothing but material for the functioning of our bodies.

Raimo Tuomela's notion of the group *ethos* runs into a similar problem to this last one. For Tuomela, a group's norms are collectively accepted by the members of that group.[16] But, when the norms of the group directly harm the members, as with corporations causing enormous environmental harms or universities demanding excessive workloads of their academics, it seems unreasonable that these norms have been collectively accepted in any free sense. Certainly, to be a member of a group agent, one must cave to that group's demands. But given that in many cases group membership means sustenance, housing, and hopefully comfort, framing the group's ethos as dependent on the acceptance of its members rather than as a constraining force on them is at odds with the facts.

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16 Raimo Tuomela, *Social Ontology: Collective Intentionality and Group Agents* (Oxford: Oxford University Press, 2013), 15, 136-40.

Here, again, the enactive approach to understanding collective agency allows us to better explain the groups that we encounter in the real world.

It is clear, then, that the enactivist account of group agency provides a powerful tool for better explaining and predicting important aspects of our social and political worlds. It is important that we have these tools precisely because of the necessity of our participation in these groups that are designed by us to serve us, but which end up so often constraining us in ways that we might think of as dysfunctional, and yet are highly functional from the perspective of the group itself. Group membership is a fact of life, and group norms weigh heavily on political and social interactions. If we want to be able to improve anything, it is therefore vitally important that we have the tools to explain how change can and cannot occur. The enactivist account of group agency that I have argued for here provides us with the tools to develop consistent explanations of why groups behave the way they do and to develop research that may allow us to determine how best to influence collectives that cause us harm.

Universities, though often thought of strictly as institutions of higher education, have become highly commodified because of the environmental circumstances they are in. Though the enactivist account in many places only promises future results from future research, it does appear to better illuminate the sources of our collective problems than some of the alternative approaches. Where Tuomela, for instance, relies too heavily on group members, the enactivist account of group agency at the very least makes it clear that the problem is far broader than that. The solution to the detrimental circumstances we find ourselves in lies outside of the university bureaucracy, and even outside of the power of university staff alone. Collective action to affect substantial environmental change seems, *prima facie*, the only viable choice.

The University System in the Perspective of the System Approach and Functional Analysis

Jiří Šubrt

The subtitle of the conference where I presented this paper was "The autopoietic function of universities." It refers to the term *autopoiesis*, and thus to the German sociologist Niklas Luhmann, and therefore we will start with a few remarks about him.

It is useful to recall a controversy that began about 30 years ago. At that time, researcher Karin Knorr Cetina stated that in the empirical research of partial social systems we do not encounter the behaviour assumed by Luhmann's systems theory.[1] As an example, she cited the subsystem of science, where, according to Luhmann, the guiding principle of communication based on the binary code *true x false* was to be applied.

Knorr Cetina objected that a number of aspects and criteria are applied in communication, many of which are non-scientific in nature. There are important considerations on the position of individual scientists, trust in their abilities, presumed honesty and responsibility; furthermore, there is the size and prestige of the scientific workplace or the way of presenting results. We cannot ignore even the issue of political influence and the financial support of individual workplaces.

Based on these arguments, Knorr Cetina questioned the systemically theoretical assumption that communication within a certain system takes

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place exclusively or mainly on the basis of a single code, because such specific social configurations in fact occur very rarely.[2]

The German sociologist Armin Nassehi opposed this critique of Luhmann's theory, seeing the weakness of such empirical arguments that essentially two levels were mixed up: the level of organizational systems and the level of the social system. The description of reality given by Knorr Cetina, according to Nassehi, concerns not communication within the system of science, but within a scientific organization (institute, university, etc.). Although it can be agreed that individual organizational systems correspond to specialized organizational forms (i.e., organizational systems such as universities and scientific institutes correspond to the social subsystem of science), as Nassehi says, one level of system operation cannot be transferred to another (i.e., converting partial social systems into organizations and vice versa).[3]

At this point, we may recall some partial aspects of Luhmann's theory, such as the distinction between three levels in the constitution of social systems. Luhmann distinguishes between 1) interaction systems (differentiated by presence, for example by the participation of students in a lecture), 2) organizational systems (defined by the membership

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2 Ibid., 413.insbesondere diejenige Luhmann'scher Prägung, gesteht dieser eine zwar analytisch lose, aber nichts destotrotz treffende Interpretation institutioneller Spezialisierung in modernen Gesellschaften zu. Was sie nicht zugesteht, ist eine adäquate Rekonstruktion der internen Umwelt bzw. des internen Funktionierens der in Frage stehenden Funktionsbereiche. Entgegen Charakterisierungen in den Termini einer endogenen Logik und selbstbezogenen Autopoiesis wird auf die Heterogenität der Sprachspiele und Praktiken hingewiesen, die sich in diesen Bereichen findet. Die Differenzierungstheorie ignoriert, wie spezialisierte Bereiche durch Strukturierungsformen, die Funktionsdifferenzierungsgrenzen unterlaufen, sowohl ermöglicht als auch immer wieder ersetzt werden. Damit verbunden ist eine Kritik der ,ontologischen' Realitätskonzeption der Differenzierungstheorie, die zwar Selbstorganisation postuliert, aber nicht zuläßt, daß realzeitliche Bereiche sich sowohl differenziert als auch undifferenziert, sowohl selbst-organisiert als auch nicht selbst-organisiert, oder weder in den einen noch in den anderen Kategorien konstituieren könnten. Alternativen zu dieser Vorgehensweise sind theoretische Reflexivität sowie eine Theorie der Praxis. Die Kritikpunkte werden durch Beispiele aus dem Bereich der Wissenschaft illustriert. In this paper, differentiation theory is considered to provide an adequate – if analytically loose – description of the increase of specialized functions in modern society. On the other hand, differentiation theory, especially the variant proposed by Luhmann, is challenged with respect to the view it provides of the internal logic and functioning of specialized domains. The paper argues that differentiation theory, far from adequately reconstructing the internal environment of functional systems, ignores the degree to which such domains draw upon heterogenous language games and practices in fulfilling their distinctive tasks. In other words, it ignores how functional differentiation is at the same time sustained by (made possible by

3 Armin Nassehi, *Differenzierungsfolgen: Beiträge zur Soziologie der Moderne* (Wiesbaden: Springer, 1999), 23.

rules – for example, universities),[4] and 3) social systems (characterized as systems of all mutually communicatively achievable actions). In his work, Luhmann himself dealt mainly with the most comprehensive social systems, which means societies and their subsystems (economic system, political system, legal system, system of science, etc.).

In Luhmann's perspective it is essential that lower-level systems cannot be understood as building blocks for higher-level systems, so that organizations are made up of interactions. Nor is it true that societies are formed by organizations. All social systems are made up of communication,[5] but this communication is different in each system.

Another important aspect is that human beings are not part of social systems. In Luhmann's works, this is referred to as "methodological antihumanism." Systems are made up of communications, not individuals.[6] These are referred to as "personality" or "psychic" systems[7] and they represent the surroundings of social systems.[8]

However, Luhmann's methodological antihumanism certainly has one serious consequence for understanding the processes that take place

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4   Organizational systems are constituted by membership based on the willingness to submit to expectations, specified by the internal criteria of the system. Entry into the organizational systems is voluntary, but staying in requires strict compliance with and acceptance of given standards and rules of membership.

5   Luhmann withdrew the concept of communication from the common concept in which it is used in everyday speech. He was interested in communication as such, not in communicating people. In Luhmann's perspective, communication is a relatively closed, abstract system, a synthesis of certain selective processes. It comes into existence when there is a synthesis of three selections: 1. information (someone chooses something from the mass), 2. message (choice of the way to communicate), 3. understanding, comprehension (alternatively there is 4. selection: acceptance x rejection of communication).

6   Niklas Luhmann, *Ökologische Kommunikation: Kann Die Moderne Gesellschaft Sich Auf Ökologische Gefährdungen Einstellen?* (Opladen: Westdeutscher Verlag, 1986), 269; Niklas Luhmann, *Liebe als Passion: zur Codierung von Intimität*, 4. Aufl (Frankfurt am Main: Suhrkamp, 1984), 20.

7   Psychic and social systems interact with each other in development. The relationship between the human being and the social system, Luhmann describes using the terms co-evolution (denoting common, interdependent development) and interpenetration. Interpenetration is made possible because social and psychic systems are "similar" in operating through based on meaning; this is different from other systems, such as machines. The interpenetration process assumes that two different systems can enable each other by making their complexity mutually available; they do not merge, but remain the surrounding to each other. Of course, there is also a significant difference, as they (psychic and social) are organized in different ways: psychic systems are organized on the basis of consciousness, social systems on the grounds of communication. See Niklas Luhmann, *Soziale Systeme: Grundriss einer allgemeinen Theorie* (Frankfurt am Main: Suhrkamp, 1984), 290.

8   This methodological antihumanism is based on the premise that individual persons belong to the social system only by a certain type of action; according to T. Parsons, they belong to it with their "role"; see Talcott Parsons, *Societies: Evolutionary and Comparative Perspectives* (Englewood Cliffs, NJ: Prentice-Hall, 1966).

in systems. The fact that Luhmann places human individuals in the position of the surroundings of the system means that his theory lacks what is called an actor in sociology. With Luhmann, actions, actors or agency are replaced by the concept of *autopoiesis*.

The term autopoietic system – derived from the artificial expression autopoiesis (from the Greek *autos* = self, *poiein* = to produce, to create) – simply states that the system has the ability to create itself, or – to be more precise – that individual systems develop autonomously, by realizing the possibilities contained in the network of their components.[9] In the original conception of Humbert R. Maturana and Francisco J. Varela, the biological system is understood as a network of the production of its own components. Luhmann adopted this idea and applied it to social systems.

Luhmann's concept of *autopoiesis* was developed mainly at the highest level of social systems, represented by the subsystems of the social system. At this level, according to Luhmann, social systems create mechanisms to stabilize communication processes. Luhmann described these mechanisms as symbolically generalized communication media.[10]

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9   See Ivan Mucha, "Některá Východiska Luhmannovy Kritiky Současné Sociologické Teorie," in *Soudobá Teoretická Sociologie Na Západě: Příspěvky Ke Kritické Analýze* (Praha: Ústav pro filozofii a sociologii ČSAV, 1989), 154. In this sense, the concept of *autopoiesis* is a specific development of ideas about self-organization / the self-organizations, as we encounter them in the natural sciences.

10 Luhmann's notion of symbolically generalized communication media does not refer to commonly understood means of mass communication, but such media as power, money, laws, faith, or knowledge. Luhmann defines these media as "semantic apparatuses that allow success even in improbable communications," Luhmann, *Liebe als Passion*, 20. Luhmann considers the differentiation of individual communication areas as one of the main features of social evolution, with politics, economics, law, religion, science, but also education, art or intimate relationships, together with their corresponding communication media. Each subsystem has its own specific medium and it is functionally differentiated according to the degree of its own binary codes, for example: politics – power (to have / not have), economy – money (payment /non-payment), law – laws (law/injustice), science – scientific knowledge (true/false), religion – faith (immanence/transcendence). Although the codes distinguish between alternatives (for example norm/deviation, success/failure, recognition/contempt, beauty/ugliness, good /evil), they do not in themselves contain criteria for this distinction. The criteria guaranteeing the correct assignment of code values are described by Luhmann as programs, Claudio Baraldi, Giancarlo Corsi, and Elena Esposito, *GLU: Glossar Zu Niklas Luhmanns Theorie Sozialer Systeme* (Frankfurt am Main: Suhrkamp, 1997), 139. For example, for the true – false code, such criteria as validity, reliability, representativeness, logical absence of contradiction, etc. are applied in the scientific system. These criteria represent a program whose specific semantic content allows selection according to the relevant binary code. Unlike the universality of the code, the semantics of the program (and thus the nature of the criteria) tend to be historically relative and variable.

Luhmann did not pay much attention to organizational systems, but nevertheless one can find in his work considerations on organizational systems and their *autopoiesis*. The concept of organizations as autopoietic social systems is based on the assumption that organizations consist of events, while their elementary unit is a special type of communication: communication decisions.[11] The elements or basic operations that make up an organization are decisions, so that decision-making events must be in a meaningful relationship with each other and concur.[12] A decision should be understood as a special type of communication, the function of which is to absorb uncertainty. Systemic coherence in this case means just that every decision must be considered a premise for further decisions.

Luhmann's theory is oriented by the effort to reduce the complexity of studied phenomena by discovering a certain hidden principle, common to the systems of one class. In doing so, Luhmann followed ideas from the general theory of systems, which began developing in the 1950s. This was a kind of search for the hidden nature of systems. However, if we limited ourselves to an explanation based on a single principle, we would fundamentally impoverish our knowledge.

Luhmann can be described as the functionalist, or let us say, neo-functionalist. Functionalism was a perspective much criticized in the 1970s and the 1980s in sociology, mainly because, according to critics, the notion of function overshadowed the actions of human individuals. However, it is an aspect that in my view offers certain perspectives in the analysis of social systems that should not be ignored.[13]

One of the essential aspects is that social institutions or social systems may have one leading autopoietic principle, but basically they tend to be multifunctional.[14] So, for example, the university has not just one function, but many, such as education, upbringing, socialization, communication, ethics, culture, economy, politics, religion, sports and representation. Luhmann, who always associates the functioning of individual

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11 Niklas Luhmann, *Organisation und Entscheidung* (Opladen: Westdeutscher Verlag, 2000).

12 The concept of *autopoiesis* comes into play so that the elements of the organizational system are produced by the system itself.

13 The application of the functional method in the social sciences is based on the fact that the individual parts of society are examined in terms of their contributions, or functions, for the security or functioning of the entire social system, or its sub-subsystems.

14 Functionalism is often associated with the assumption that the social phenomena cannot be explained on the basis of a single factor, but it is necessary to take into account a whole number of concurrent factors (instead of monocausalism, polycausalism).

systems with one particular type of communication, tends to overlook this multifunctionality. But we could first ask whether the name of this conference, the autopoietic function of universities, should not be plural: functions?

Furthermore, we can add, following the terminology of R. K. Merton, that some functions are manifest in nature (wanted, intended, intentional and planned), and some are latent (unintended, unintentional, unwanted and unplanned). According to Merton, the substantial part of sociological research should be the discovery of such latent functions. If sociology was limited to the observation of manifest functions, it would insist on the establishment of well-known banalities. Sociology, on the other hand, becomes interesting and beneficial if it can discover and analyse what people did not intend and plan. In addition to functions, according to Merton, there may also be dysfunctions (in our case, the distribution and redistribution of financial resources, or the disproportionate escalation of entitlements among employees, students or university graduates).

For further inspiration, we can look to Luhmann's predecessor, the American sociologist Talcott Parsons. According to Parsons, any social system can reproduce only if it ensures the realization of four basic functions: adaptation (A), achievement of goals (G), integration (I) and maintenance of latent cultural patterns (L).[15] Luhmann does not work with the AGIL scheme, mainly because he prefers to explain the *autopoiesis* of individual systems on the principle of one specific communication medium, but in the context of the discussed issues perhaps Parsons' scheme may offer us a more flexible, plausible approach to theoretical description.

In Parsons' systems models, each basic function is associated with a functionally specialized subsystem. However, university as a system can in my view be adequately captured only if we do not associate individual functions with one subsystem, but multiple connections. So, for example, adaptation refers to the level and state of politics, economics, science, culture, and other areas, including, for instance, demographic structures. Setting and achieving goals can also have several dimensions: educational, scientific, political, economic, etc. As for integration, it is necessary to consider not only the internal cohesion of the university system itself, but also the question of its involvement in wider social

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15 See Parsons, *Societies*. Sometimes we also talk about the "paradigm" AGIL, or the abbreviation LIGA is used (A: Adaptation, G: Goal Attainment, I: Integration, L: Latent pattern maintenance).

structures, and not just those within which scientific and pedagogical tasks are developed (an important topic, for example, is the connection of teaching with practice). Finally, the maintenance of latent cultural patterns, in a given context, can be understood as a permanent connection, reproduction and development not only of academic traditions, but also of ways of scientific thinking or ideological principles.

In Luhmann's conception, autopoietic processes have the character of communication. For Parsons, however, it is not just a matter of communication in terms of handling information, but also of exchange,[16] and this can be understood in the university system as one of the interpretive models of what is happening in this area. Many academics believe that there should be something in science of free competition, which liberals still consider the best environment for dynamic development. It is assumed that, as in the economy, where everything is controlled by the "invisible hand of the market," something similar should exist in science, and it is believed that in this (marketplace of ideas) way the best will prevail. However, it is often forgotten that neither the contemporary economy nor science works in an environment in which only competition dominates. As political economy showed at the beginning of the 20th century, in today's capitalism it is often those who are in the monopoly positions that can dictate to others and thus control the relevant market segment. And later something similar – as far as science is concerned – was pointed out by the American sociologist Robert K. Merton when he described the functioning of the so-called St. Matthew effect in science.

Merton builds on Jesus' statement recorded by the evangelist Matthew, which states that the rich will be even richer and the poor even poorer (more precisely: "As every one that hath, he will be added, who that hath not, they shall be even taken away from him." /Mt 25, 29/).[17] Merton takes this statement literally and reflects on its effects on existing science funding systems. The formation of monopolies in the field of science leads to monopolists buying the best scientists in the given field, in whose hands is the best technical equipment, respected professional periodicals, contacts with recognized publishers, privileged access to grant competitions, and funds intended to finance science. Monopolists can then influence the further development and direction of science, but also

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16   What Luhmann symbolically calls generalized media, Parsons understands as media of exchange.

17   Robert Merton, "Efekt Sv. Matouše ve Vědě (Úvaha o Systémech Odměn a Komunikací ve Vědě)," *Sociologický Časopis / Czech Sociological Review* 6, no. 2 (1970): 121–32.

the advancement of the personal careers of those who move in this social field, simply by choosing and recommending, from the range of options open to science at a given moment, the paths that suit them- while they try to eliminate or marginalize other paths, opinions and representatives.

If we ask what can prevent the excessive monopolization of science, we are again reminded of what we know from economics, and that is planned management. The management of science is undoubtedly important, but it must be freed from the shortcomings faced by the socialist planned economy, in which the elements that dynamize the economy are fatally absent, such as competition, contention, individual and group interests. German system theorists, who somewhat in connection to Luhmann have tried to resolve the issue of political control over individual partial social systems in the last twenty years, have come up with the concept of "supervision."[18] In response to this idea, we find that the management of science in this regime should not resemble the planned economy of real socialism, but should be a supervision that does not take away from individual areas of science, and also individual and collective actors, the room for exercise of competition and rivalry. However, in the conclusion of this paper we come to processes that cannot be explained only as a result of autopoietic systemic operation, but must take into account the actions of particular individual actors – specific human individuals of the homo academicus type.

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18   Helmut Willke, *Supervision des Staates* (Frankfurt am Main: Suhrkamp, 1997).

Historical Investigations:
The Current Fate of the Universities

Universities under Systemic Changes, the Way of CEU from Prague through Budapest to Vienna

Peter Balazs

Subjective Introductory Remarks

The history of Central European University (CEU) has gone hand in hand with the tremendous systemic change in the eastern part of Europe. The various events around CEU – a true and authentic Central European educational institution at the beginning – reflected the major political turns in the region. I cannot have an objective view about this topic, being personally involved both intellectually and emotionally. I started teaching at CEU immediately after my return from Brussels, where I had the honour to be the first Hungarian member of the European Commission in 2004.[1] In 2017 I went down the streets of Budapest, together with colleagues and students, to protest against the expulsion of the university from Hungary. After having spent 15 active years at CEU Budapest, I am today a Professor Emeritus of that university.

At CEU I began my activities with a double task. On the one hand, I prepared my teaching at the International Relations and European Studies Department. I took over the course concerning the external relations of the EU and suggested a new one on European governance. I started my courses in 2005 and continued until 2017 (11 academic years). On the other hand, I was asked to set up a research centre "about the EU" and

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[1]   My fellow Commissioners from the Visegrád countries were Pavel Telička (Czech Republic), Ján Figeľ (Slovakia) and Danuta Hübner (Poland), who were actively involved in the EU accession negotiations, too. Pavel Telička and I became the first Permanent Representatives of our respective countries and the first EU Commissioners, also the first being replaced by party politicians.

I was given a free hand to suggest its topic. Considering the main profile of Central European University, its geographical location as well as the countries of origin of the great majority of the students, I introduced the project of the "Centre for EU Enlargement Studies (CENS)" which was approved by the Senate. The Centre started its activities in 2005 for a test period with an initial staff of three people. A few years later, CENS was enlarged to seven researchers, and subsequently, together with visiting and temporary staff, to a stable team of 10–12. Later the name was changed into "Centre for European Neighbourhood Studies (CENS)."

In 2020, in parallel with the move of CEU from Budapest to Vienna, this centre – together with several other research centres of CEU – was closed without succession. During the 15 years of its existence, CENS conducted interesting research projects (e.g., about the perspectives of the "EU 36," the experiences of "post-accession conditionality" in the EU or the future of the EU budget) and organized a great number of international conferences, workshops, seminars and round tables.

The origins of CEU

The Central European University was founded in 1991 in response to the collapse of the Soviet Union and its alliance system. The founding vision was to create a university dedicated to examining the contemporary challenges of "open societies"[2] and democratization. The initial aim of the CEU was to create a Western-modelled yet distinctly Central European institution that would foster inter-regional cooperation and educate a new generation of regional leaders to help democratic transitions across the region. The CEU was set up in Budapest, Prague, and Warsaw. It was originally located mostly in Prague, but due to political and financial conflict between its founder and the Czech government, it was moved to Budapest.

As far as details are concerned, the CEU evolved from a series of lectures held at the Inter-University Centre in Dubrovnik, Yugoslavia (now Croatia). In 1989, as historical change was gathering momentum in the region, the need for a new, independent, international university emerged. The minutes of the gathering held in April 1989 record a discussion among scholars such as Rudolf Andorka, Péter Hanák, Márton

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2   The term "open society" was introduced by the philosopher Karl Popper, who made a deep impression on one of his young students, the emigrant Hungarian G. Soros, at the London School of Economics.

Tardos, István Teplán, Tibor Vámos and Miklós Vásárhelyi from Budapest, William Newton-Smith and Kathleen Wilkes from Oxford, Jan Havranek, Michal Illner and Jiří Kořalka from Prague, and Krzysztof Michalski and Włodzimierz Siwiński from Warsaw. George Soros liked the idea and undertook the financing of the new university.

In 1989–1990, a serious attempt was launched to establish a European University in the Slovak capital of Bratislava, but it fell through due to opposition from nationalist politicians. In January 1990, 38 Slovak historians wrote an open letter in the name of the "Štúr Society" and strongly opposed the use of the Slovak Parliament's building to host the new university.

In April 1991, the President of Charta 77, Jan Palouš, offered the CEU a building in Prague. However, Prime Minister Václav Klaus did not like the liberal ideas and limited state support for the university. In 1992 the Czech government increased the rental for the Trade Unions' House, forcing CEU to leave the country. In parallel with that, CEU could not stabilize its presence in Warsaw either. However, in 1992 the city of Budapest offered a centrally located historical building in Nádor street, a magnificent palace of the Festetics family based in Keszthely at the western end of Lake Balaton.[3] So CEU was transferred to Hungary and could function and develop undisturbed for 15 years. The university got accreditation both in the US and Hungary. In the United States it was accredited by the Middle States Commission on Higher Education, in Hungary by the Hungarian Accreditation Committee and officially recognized in 2004 as a privately maintained and operated university.

CEU under Attack in Hungary and Moving to Vienna

After the occupation of the media, the courts, civic organisations, universities and theatres etc., CEU could not escape the aggression of Viktor Orbán's[4] "illiberal" drive, either.[5] On 28 March 2017, the Hungarian Minister of Human Resources Zoltán Balog, also responsible for education, submitted a bill to Parliament to amend Act CCIV of 2011 on National

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3   Minister Karel Schwarzenberg told me once that his grandmother, coming from the Festetics family, had lived in that palace at Nádor street 9, Budapest as a child.

4   Prime Minister of Hungary in 1998–2002 and 2010–2022.

5   Franklin Foer, "Viktor Orbán's War on Intellect," The Atlantic, June 2019, https://www.theatlantic.com/magazine/archive/2019/06/george-soros-viktor-orban-ceu/588070/.

Higher Education. The bill introduced new regulations for foreign-operating universities, several of which affected CEU. Notably, such universities could only function if the Hungarian government had an agreement with the university's other country of operation (with regard to CEU, the agreement is between the State of New York and the city of Budapest). In addition, universities in service outside of the European Union should have a campus in their other country of operation too where comparable degree programs would be offered. In 2017 it was obviously not the case for CEU.[6] Furthermore, both existing and new non-EU academic staff of CEU were required to apply for work permits. In Hungary, this condition is seen by critics as placing CEU at a particular disadvantage, given that it relies largely on non-EU faculty. Finally, the law also prohibited both the American and Hungarian entities from sharing the same name (Central European University – *Közép-európai Egyetem*).

In order to highlight the political atmosphere in Hungary, it is important to mention the "Stop Soros" national consultation in late 2017. The opportunity for the accusations against Soros was delivered by himself: in his article "Rebuilding the Asylum System,"[7] he suggested humanitarian reception and integration of asylum seekers in Europe with special regard to the missing workforce in some EU countries like Germany. The message of the government propaganda in Hungary was that Soros is manipulating the EU and his final aim is to turn the population of Europe into Muslims.

In 2018 the Hungarian government refused to sign an agreement allowing CEU to continue teaching its US-accredited programs in Hungary. Under this political pressure, on 3 December 2018 the Board of CEU announced the decision that it would relocate the majority of operations to Vienna in September 2019.[8] Only less than one fifth of CEU's programs, that are locally accredited, would remain in Budapest.[9] In Austria, CEU has been recognized as a private higher education

6   These special conditions were tailor-made for CEU which was called "the university of Soros" by Prime Minister Orbán and other members of the government.

7   George Soros, "Rebuilding the Asylum System," Project Syndicate, September 26, 2015, https://www.project-syndicate.org/commentary/rebuilding-refugee-asylum-system-by-george-soros-2015-09/.

8   Marc Santora, "George Soros-Founded University Is Forced Out of Hungary," New York Times, December 3, 2018, https://www.nytimes.com/2018/12/03/world/europe/soros-hungary-central-european-university.html/.

9   Palko Karasz, "Hungary Plan That Could Shutter Soros's University Is Called 'Political Vandalism,'" New York Times, March 29, 2017, https://www.nytimes.com/2017/03/29/world/europe/hungary-george-soros-university.html/.

institution pursuant to section 7 of the Decree on Accreditation of Private Universities (PU-AkkVO). Central European University Private University (CEU PU) is accredited by the Agency for Quality Assurance and Accreditation Austria.

As a closing act, the Hungarian government launched another hostile propaganda campaign by 2019: Jean-Claude Juncker, President of the European Commission and George Soros were presented together on billboards, with a distorted grimace on their face, all across the country with the comment: "You should know what Brussels is for." The hidden message of the campaign was that liberal political forces, embodied by George Soros, in conspiracy with the European Union, exemplified by the person of Jean-Claude Juncker, represent a major threat to the sovereignty of European nation states.

This scurrilous action contributed to the exclusion of Fidesz, the political party of Orbán, from the European People's Party (EPP) in 2020. Before this breakup, the President of the party group, Manfred Weber visited Budapest on the eve of the 2019 EP elections and made a last attempt to keep Fidesz in the EPP family. He presented three requests to Mr. Orbán: first, to apologise because he called the EPP members "useful idiots"; second, to take off the Juncker-Soros pictures on the streets of Hungary; and third, to leave CEU in peace in Hungary. Orbán fulfilled the first two but did not change his attitude toward CEU.

The position of the US government was interesting, too. After failing to promote a deal between the US and Hungary that would keep the CEU in Budapest, the US Ambassador to Hungary nominated by President Donald Trump, David Cornstein, said (on 30 November 2018) that the whole issue "had to do with Orban and Soros. It had nothing to do with academic freedom or civil liberties." According to The New York Times, "Mr. Orban has long viewed the school as a bastion of liberalism, presenting a threat to his vision of creating an 'illiberal democracy,' and his desire to shut it down was only deepened by its association with Mr. Soros, a philanthropist who was born in Hungary. He has spent years demonizing Mr. Soros, a Jew who survived the Nazi occupation of Hungary, accusing him of seeking to destroy European civilization by promoting illegal immigration, and often tapping into anti-Semitic tropes."

CEU's Achievements

Since its inception, 16,795 students from 147 different countries have graduated from CEU, the majority of whom went on to be employed in business, education, research, or government. A report prepared by the Hungarian Rectors' Conference (*Magyar Rektori Konferencia*) stated that CEU faculty had the highest number of international publications per capita (recorded in the Web of Science) among Hungarian universities. The same applies to the amount of research support grants received in the framework of EU's Sixth and Seventh Framework Programmes for Research and Technological Development. The CEU Library is famous in Budapest: it offers a major English-language print collection as well as providing access to a wide range of electronic resources in the social sciences and humanities, law, and public policy. The Open Society Archives at CEU (OSA) is a Cold War research facility, holding over 7,500 linear metres of material, 11,000 hours of audio-visual recordings and 12 terabytes of data related to communist-era political, social, economic and cultural life. CEU Press was the largest English-language publisher in Central and Eastern Europe.

CEU's leadership has presented a colourful picture. The first head of CEU was William Newton-Smith (1991-1993), a Canadian philosopher of science. The first Rector, Alfred Stepan, an American political scientist, took office in 1993. He was succeeded by Jozef Jarab, a Czech literature historian and a former member of the Senate (1997-1999). After him, Yehuda Elkana was the President and Rector (1999-2009), a Hungarian-born and Hungarian speaking Israeli citizen, a Holocaust survivor, a wonderful philosopher of science, who assured inspiring conditions for the development of CEU during a whole decade. In 2009 he was succeeded by John Shattuck, a legal scholar who served as a US diplomat, took active part in shaping the Dayton Peace Agreement closing the Bosnian conflict and spent years in Prague as US Ambassador. He was familiar with the Central European region and used his diplomatic skills and experience for to maintain relations with political circles in Hungary, both in government and in opposition. In 2017 Michael Ignatieff succeeded Shattuck, becoming the fifth President and Rector of the university. Ignatieff, a former Canadian politician could not establish the necessary dialogue with the Orbán Government, with Hungarian political parties and NGOs in opposition, as well as with other Hungarian universities and the Hungarian public. When CEU came under political pressure in Hungary, he tried to mobilize support from abroad,

the US and Western Europe, but in the very country of operation he lost the battle and moved CEU to Vienna. In June 2021 Shalini Randeria, an American-born Indian anthropologist was elected as the new Rector of CEU Vienna.

According to the intentions of the founding fathers, CEU focused originally on the complexity of the transformation process, changing at the same time the political system, military alliances, owners, markets and products in the economy as well as – in many cases – state borders. The various departments of CEU – economic, legal, political etc. – paid due attention to the European and global integration of the region. A strong European and more particularly – in full harmony with the institution's name – Central European orientation characterised the programmes

CEU had close relations with EU institutions. George Soros regularly visited the leaders of the European Commission (The propaganda machine of the Orbán government frequently used pictures of Soros with Juncker and other personalities in Brussels). I assisted Rector Shattuck in several visits to the European Commission with the aim of obtaining EU financing for developing European studies at CEU. The university had all the elements to complete competitive programmes at the same level as the European University Institute in Florence (Italy) or the College of Europe in Bruges (Belgium) and Natolyn (Poland). However, those visits had no follow-up and the name of the CEU's "Department of International Relations and European Studies" was shortened to "International Relations" in 2015. "European studies" was dropped, indicating the victory of the globalist – and partly Asian – lobby within CEU.

Failures and Omissions?

Professor Jiří Musil from CEU Prague considered that some mistakes had already been made at the very beginning. Communication was not adequate and sufficient with local civic organisations, other universities, and public opinion. CEU should have responded much earlier to the propaganda attacks of the conservative government of Václav Klaus. This statement is certainly valid for the long Hungarian period, too. In the middle of the city of Budapest, in a wonderful location, complemented with a new building with ideal teaching facilities, CEU has been a kind of an extraterritorial institution, an English-speaking American

university with a great majority of foreign students from many countries of the world.

Supposedly, with more scholarships for Hungarian students, the Orbán government would have had some difficulties with the exclusion of CEU from Hungary. Furthermore, the teaching staff of Hungarian universities could have been included for shorter periods in CEU faculty in order to get acquainted with higher standards. More public events should have taken place in Hungarian language for the broader public (the remains of CEU in Budapest now organize such courses). Frequent information could have been forwarded to the local press, too.

The original objective of CEU was educating a new generation of politicians for new democracies, including Hungary; but Viktor Orbán turned away from the idea of "open society" and tried to shape an opposite model of "illiberal democracy" – the negation of democracy and the rule of law. Chancellor Angela Merkel noted at a press conference with Viktor Orbán that the term "illiberal democracy" is a clear contradiction in itself: a system is either liberal and democratic or illiberal – but in that case it cannot be democratic. As one analyst remarked: "The history of CEU is an adequate illustration to the democratic transformation of Central Europe: great projects, important decisions, failing implementation, defeats, enthusiasm and hysteria opening to Europe and nationalist provincialism – mostly in the political surrounding of the university with some echoes inside the institution, too."

Idealism and Capitalism: Two Sides of the Beginnings of Private Higher Education in the Czech Republic (on the Example of Anglo-American College, 1990–2001)

Milada Polišenská

The emergence of private higher education institutions has been part of the post-communist transformation of the Czech Republic taking place against a backdrop preconditioned by the collapse of communism, liberalization and development of the market economy. The private colleges were not only institutions of higher education but also players in the business arena. Their beginnings were part of the distinct political and social climate of "the nineties": spirit of opportunities and entrepreneurial initiatives, liberalization which allowed the Czechs to gain experience mainly in the British and American university environment and which brought branches of foreign universities to the country, charisma of Central European University which had a campus in Prague, inspiration of returning émigrés, grant and scholarship opportunities and students' and teachers' mobility.

This article aims to examine and assess the development of Anglo-American College from its foundation in 1990 through ten years of its unofficial existence as a higher education institution under the guise of a provider of requalification courses, to its higher education accreditation in 2001. This paper is based on research of primary sources and on personal testimonies collected and examined for the first time.[1] Both idealism and capitalism manifested themselves in this development

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1 This chapter was written during my work on the book *Anglo-American College 1990/91-2000/01: Against All Odds* (Prague: Anglo-American University, 2022).

against the backdrop of the political, social and cultural atmosphere of "the nineties."

Private higher education in Czechia is slowly coming to the attention of researchers and authors, yet it is happening so far as part of surveys on higher education, or as a specific topic of management of education and business administration. The existing publications were produced mostly at the Centre for Higher Education Studies (Centrum pro studium vysokého školství) and at Prague University of Economics and Business (Vysoká škola ekonomická), including several master's theses in management of education, marketing communication and public relations.

A comprehensive historical analysis has not been done yet and especially there is a need to interpret the development of private higher education within a context of deep political, social, economic, and other changes from the fall of communism to the accession of the Czech Republic to the EU.

Research into the beginnings of private higher education in the Czech Republic is still in its infancy. Its advancement depends on whether the archives of private higher education institutions have already been processed and whether they will be made available for research. However, as the main wave of these private institutions did not occur until after the adoption of the new Higher Education Act in 1998, even the oldest documents are still outside the provisions of the Act on Archives and Records Service of 2004, according to which "only archival documents older than thirty years are open for inspection," in addition to the publicly accessible documents. This paper (and a book that was written at the same time) is therefore ground breaking in this area. It was possible to research and write it thanks to the author's access to the primary sources of AAC in the Archives of the Anglo-American University, which is the successor to the Anglo-American College.

Czechoslovakia did not have a history of private universities from before the communist coup in 1948, so there were no direct roots and traditions that could be followed after the fall of communism. However, there were other inspirations in the academic environment, and the principles and procedures of public universities were a source of appropriation by the private colleges.

Although the emergence of private higher education did not occur until the final years of the post-communist transformation, the preconditions developed gradually much earlier. The foundation of Anglo-American College goes back to just after the fall of communism.

Anglo-American College (AAC) was established in August 1990 by a young Czech, Jan (Jansen) Raichl,[2] who emigrated to Great Britain around the mid-1980s and, at the time when communism collapsed, was a BA student of sociology at the University of London. With several London-based young people, all enthusiastic to teach in Prague and discover the space just freed from behind the Iron Curtain, who had master's degrees and (some) a brief professional experience, he drafted the first syllabi and other basic materials. The motivation behind its establishment was to try something innovative, to search for self-realization, to fill an existing gap. It was at the same time an entrepreneurial decision. The school was conceived as a school that was to operate on Western educational principles, the language of instruction was to be English and its student body and faculty to be international. From the very beginning, there was an interest in studying at the Anglo-American College, as it was rare and very attractive in the early 1990s, and it advertised a much cheaper Western education which otherwise the students could not afford.

The surviving informational guide from October 1990 *The Anglo-American College in Prague. A Guide to its Objectives and Structure* [3] documents the founder's initial vision in London before it confronted the reality in Prague: Anglo-American College is a "non-profit educational and research establishment. Its objectives are 1. To provide the Central European population with essential knowledge of American and British institutions and of the English language, 2. To undertake research projects assigned by foreign institutions into Czechoslovak affairs." The first point more or less corresponded to the business registration, the second point was completely unrealistic. The academic structure of AAC was envisioned quite grandly, in a way that was never to be realized. Gradually the vision of an educational institution to prepare students for working in foreign business based in Czechoslovakia and for succeeding in Czechoslovak business abroad crystallized. In April 1991, the founder, still in London, wrote and printed *Student Information and Regulations for the Academic Year 1991/1992*.[4] It was inspired by Goldsmiths College, where he was a student. It structured the college into several standard

2   All persons named in this paper have confirmed their consent to the disclosure of their personal data.

3   Jansen Raichl, *The Anglo-American College in Prague. A Guide to its Objectives and Structure*. Prague, October 1990. AAU Archive, Handbooks, Catalogs and Prints Collection.

4   AAU Archive, Handbooks, Catalogs and Prints Collection.

departments, Economy, Education, English, History, Law, Politics and Social Sciences.

Idealism, enthusiasm, romanticism, camaraderie, the attractiveness of Prague for Westerners discovering the post-communist world, the ambition to "make a change," to "achieve something" – that was one side. The other side was a lack of managerial and administrative skills, insufficient academic maturity, lack of financial resources and lack of legal basis for this specific activity in Czechoslovakia.

Anglo-American College in Prague[5] was registered as a private business venture based on the legalization of private business of citizens,[6] effective 22 August 1990.[7] The field of business was defined as "mediating education in the humanities, focused on the Anglo-American area."

The only lecturer hired in Prague was a post-1968 émigré who had returned after communism collapsed. The other four lecturers of the initial team, an American, two British and a Ugandan, arrived with the Czech founder from London.

The college opened on 23 September 1991 in a rented space in one of Prague's high schools.[8] Securing premises at a renowned high school turned out to be an excellent initial advantage. The materials promoting AAC highlighted the fact that it would provide education based on the Western model and that the lectures were to be in English and taught by qualified experts from the West, especially from Great Britain. The promotion generated great enthusiasm in Czechoslovakia, with 150 candidates expressing their interest in the spring of 1991. The first semester finally opened with 51 students. Only about 40 students sat the exams after the first semester, probably those who had paid their tuition fees. In the second semester, there were 78 registered students and the international character of the college started profiling – there were students from Czechoslovakia, Serbia and Montenegro, Bosnia, Croatia, from Africa, Canada and the U.S.[9] The high number of students from the former Yugoslavia was caused by the civil war sweeping the country. The

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5   In this paper, we will use only Anglo-American College without the designation of the foundation and without "in Prague," until we focus on the transformation of the AAC Foundation into another legal form.

6   Possible through Act No. 105/90 Coll., on the Private Business of Citizens, in force from 1 May 1990.

7   Many secondary sources often claim that AAC was founded on August 1. It was, however, only the date of the request, not the date of the decision or the date the decision came into effect.

8   High School in Voděradská Street, Prague 10.

9   Mark Andersen and Joan Winn, "Anglo-American College in Prague. The Challenges to Lead in Post-Communist Czech Republic (A)," *Case Research Journal* 21, no. 1 (1999): 6.

interest in AAC was mainly among young people from bilingual families living in Czechoslovakia or families with international experience, secondary school students who had been part of an exchange program in the U.S. (these programs had become available soon after the fall of the communist regime) and wanted to continue studying in English, and those looking for new opportunities. Another group interested in studying at AAC were children of diplomats and expats.[10]

The financial situation was difficult from the beginning as fewer students enrolled than had initially expressed interest, and many of them did not pay the tuition fees. Nevertheless, the founder secured and paid for the accommodation of lecturers and students, which also documents the philanthropic and idealistic side of the undertaking.

After the collapse of communism, private primary and secondary schools and various educational establishments emerged in Czechoslovakia, and legal regulations existed for their establishment. However, there was no legal basis for the existence of private colleges and in fact this was not to come until 1998. For the first semester, AAC operated without any certification of its educational activities. In February 1992, the Ministry of Education authorized AAC as a provider of post-secondary requalification courses.

Anglo-American College continued to operate as a requalification institution for another nine years. The students were regularly informed about this fact. However, it only acted as a requalification provider where Czech educational authorities were concerned; in all other ways it perceived itself as a college, functioned as a college, advertised as a college, followed university-level academic guidelines, used university academic titles, held ceremonial graduations with ambassadors appearing as speakers, and, finally, issued bachelor's diplomas.

The fact that these diplomas were not recognized by the Czech legal system did not stop AAC graduates from being accepted into master's study programs at universities in other countries or from finding jobs requiring a BA education. The employability of the graduates was very good.

Nevertheless, the issue of higher education accreditation has been a hot topic right from the beginning and increasingly over time.

The college started with three-year study programs Politics & History, Economics & Law and Sociology. A program of study leading to the

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10   AAU Archive, JR PhotoCollection, 1992c.

title of JUDr. was offered for several years which shows an idealism and enthusiasm on the one hand and lack of expertise on the other hand. At the same time it also illustrates the effort to succeed in the market economy.

After the initial semester, the number of lecturers started to grow and it could be stated that the lecturers at AAC had solid academic qualifications rectifying the stereotypical prejudice that being a native English speaker was a sufficient qualification. Two of this small group of lecturers held a PhD., three held a JD., another three had an MA, two had an MBA, and there was one LL.M and one MPhil. These degrees had been earned at top universities, such as University of Oxford, University of London, London School of Economics, Harvard University, University of New York, and Université de Montréal. With a BA degree, the person with the lowest academic degree was the AAC founder.

One striking example of the idealism and philanthropy of the founder of AAC and of some of his associates was the establishment of a branch campus in Uzhhorod [11] in Zakarpatskaya Oblast of Ukraine, which happened almost in parallel with the opening of the college in Prague. The idea originated before the break-up of Czechoslovakia and was inspired by the Czechoslovak First Republic, of which Subcarpathian Russia had at that time been a part. It was an enthusiastic effort to help one of the most backward parts of Ukraine at the time of the collapsing Soviet Union, which ended in disillusionment and exhaustion of its *spiritus agens*.

From a formal perspective, the establishment of AAC Campus in Uzhgorod was based on an agreement between Uzhgorod State University (USU) and Anglo-American College in Prague, signed by Jansen Raichl and USU Rector, Professor V. Y. Slivka on 19 February 1993, just as AAC in Prague was entering into the spring semester of its second academic year.[12] It is worth noting that barely a year and some weeks after the fall of the Soviet Union, the management of a public Ukrainian university saw no issue with entering into an agreement on a common venture with a subject that was private, foreign, had the expression "Anglo-American"

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11   In this study, we have opted to use the name "Uzhgorod" rather than "Uzhhorod." The former version was mainly used in the 1990s and appears in all the English-language sources this study is based on. Furthermore, we have also decided to use the period-appropriate name "Uzhgorod State University," even though today the institution's official English title is Uzhhorod National University.

12   Agreement between Uzhgorod State University and Anglo-American College in Prague of 19 February 1993. AAU Archive, Folder Uzhgorod.

in its title and whose faculty consisted of Britons, Americans, and former Czechoslovak émigrés. Only a short time before, such an endeavor would have been completely unthinkable.

Anglo-American College in Uzhgorod (AACU) was launched in the summer of 1993. The possibility of studying at AAC had sparked interest; 65 students had enrolled, out of them 33 students in Economics and 28 in Law, but little interest was shown for the Humanities. Therefore, only one program combining Economics and Law was opened. It is worth mentioning that a group research project on current changes in the economy of the Carpathian Region was scheduled.

AAC generously decided that the students from Zakarpatskaya Oblast would study free of charge,[13] and two students of Zakarpatskaya Oblast would be awarded scholarships to spend a year at AAC in Prague. It is no wonder that local students found this opportunity highly attractive – and no surprise that it presented another burden for the AAC budget.

A team from Anglo-American College managed to arrange a summer school in Uzhorod, two Ukrainian students were in Prague for a semester,[14] and then the initiative died out. Despite its promising beginnings, the first successful summer school and all the effort that had gone into its establishment, AACU never made it to the second semester.

After the end of the Cold War, organizations from Western Europe and the U.S. launched assistance programs for countries formerly part of the Soviet bloc, one of which was a book assistance programs charity. A Washington, D.C. based NGO Printed Heritage Preservation Society founded in late 1980s was active in book charity activities.[15] The organization was run by an American, Leonard Leshuk, whom Raichl had met in London. Leshuk acquired and collected 40 tons of books and shipped them to Jansen Raichl in Prague at Anglo-American College.[16] The container with books arrived in Prague in March 1993, at a time when Raichl had just signed an agreement on establishment of an AAC campus in Uzhhorod.[17] Most of the books later became an AAC library.

13   Students from other former Soviet regions were to pay $130 per semester.
14   Raichl's note in author's documentation.
15   The only information we could find regarding the Printed Heritage Preservation Society was that it was founded in 1989, was based in Washington, D.C., and that its activities consisted of providing "non-financial services of facilities to other organizations."
16   AAU Archive, Audio/Video Collection, AAC Leonard; an e-mail from Leshuk to the author from April 5, 2021.
17   A letter from Leonard Leshuk from 31 January 1993.

A large portion of the books were intended for Ukraine, though. The responsibility for transporting the books to Ukraine fell to Raichl, who ran into a plethora of problems. AAC became a sort of a distribution point for book deliveries to Ukraine which far exceeded AAC's capacity and capabilities. The "Books for Ukraine" project was later taken over by Deanie Johnson, an American short-term lecturer at AAC and "a do-gooder" in her own words.[18]

Perhaps the most significant reason Raichl's bold dream project collapsed was the crisis Anglo-American College in Prague found itself in in the fall of 1993.

The fall semester of 1993 was one of the most critical periods in the history of the AAC. The crisis seriously threatened the very existence of Anglo-American College.

The lease of the classrooms at the high school, where AAC had operated for two years, was suddenly terminated. An alternative location was found in an unused computer club at Korunní Street 101, but the problems accumulated. The accommodation of AAC students in the Czech Technological University dormitories was cancelled. Raichl, overwhelmed by the Uzhgorod project, was the target of sharp criticism. The interest in studying at AAC decreased and this situation did not go unnoticed by the press.[19] Although Raichl's goodwill and dedication could not be doubted, his managerial inexperience, stress and exhaustion and responsibility for the students and faculty caused that he was reportedly "angry and confrontational."[20]

Raichl was not able to delegate the tasks, was not able to build an effective and productive administrative team, he held all the management in his hands and "did everything himself," i.e., certification and registration with Czechoslovak authorities, fundraising, recruitment of teachers and students, keeping records, marketing, promotion, secretarial work, his own teaching, which was not manageable. He felt hurt by criticism, particularly concerning facilities, unfulfilled promises of American and another accreditation, non-existent library,[21] although students appreciated the quality of lecturers and the variety of the courses.

18 Newspaper *The Stars and Stripes*, 17 March 1994. AAU Archive, Folder Uzhgorod.
19 Mark Ballon, *"*Criticism of School Mounts. AAC under criticism for poor facilities, crowded classrooms and incompetent administration," *Prague Post*, Oct 27–Nov 2, 1993. AAU Archive, Folder Articles.
20 Andersen and Winn, ibid., 8.
21 Ballon, ibid.

The critique challenged the prevailing image of a college characterized by enthusiasm, altruism, self-motivated and cooperative teachers, and students.

In the fall of 1993, it was clear that change would be needed. One of the most visible symptoms of the crisis was the split of AAC and establishment of American International University in Prague (AIUP).

Anthony Hemstad, Raichl's close collaborator from the very beginning in London and the main protagonist of the split and exodus of one half of students and lecturers, claims that the reason for the break-up was the incompatibility of ideas about college management. Raichl identified completely with the school. It was his brainchild. He had founded it, he had invested not only his finances but had made an enormous emotional commitment. His opponents wanted the AAC governed in the same way as independent private British or American colleges are, supervised by a Board of Trustees. The founder of the AAC resisted these changes, he felt that he could not entrust decisions to anyone, but under the shock of this dramatic split, he came to understand that it was inevitable.

The American International University paradoxically did not survive its first semester in spring 1994. The students and teachers then re-joined the Anglo-American College, which in the meantime caught its second wind.

Raichl finally took a decisive step and transformed the Anglo-American College from his own business into an educational foundation, "Anglo-American College in Prague Foundation" which was registered on 1 December 1993.[22] It was necessary but difficult for him.

The establishment of the foundation was an important step, although most of the structural changes were done reluctantly and were "only on paper." However, a road was opened for real and effective transformation. AAC operated as a foundation until 2000, when it was transformed into a public benefit corporation.

Another crucial step soon followed. The college rented the villa Flajšnerka with a large adjacent park in Prague-Vysočany to have a campus. This decision was very energizing and unifying, and the response within the AAC community was very positive.

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22 Anglo-American College in Prague Foundation was registered by Jansen Raichl on 1 December 1993 under the registration number 87/37/N/93. Some sources of secondary nature state that the application was submitted in December 1993 and that it was approved on January 1, or even in February 1994.

During the summer of 1994, the villa was renovated and adapted for the campus, equipped with used furniture, computers, printers and projectors provided by the U.S. Peace Corps in Germany, and a library of books from the Printed Heritage Preservation Society was established. Even today, former students and lecturers remember with nostalgia the volunteering in all this work and the spirit of solidarity and togetherness.[23]

From fall 1994 college started not only in a new location, but also underwent significant structural changes. The departments were consolidated into the Department of Humanities, Department of Business & Economics, and Department of Law. The Board of Trustees, originally consisting of Raichl and his two closest associates, was enlarged in the meantime and a process to remove Raichl and his two friends from executive positions at AAU started. A position of Administrative Director was established and given high powers. Stephan Schackwitz, a very young American who at that time was serving an internship in the Foreign Department of the Office of the President Václav Havel, was appointed to this top administrative position. His start was successful as he negotiated the return of students and most of the lecturers from the American International University in Prague.

The new campus Flajšnerka was a promising start to the transformation of a "cowboy institution" and "hodgepodge of academics who were mostly unexperienced in everything"[24] into a consolidated school.

However, very soon after Schackwitz assumed his position, a movement to remove him from his post and from the college started. Raichl adopted an openly hostile attitude toward Schackwitz as he considered him to be the main cause of his loss of power. The department chairs also united against Schackwitz (but they, or some of them, fought against Raichl as well), blaming him for his managerial style. This "second generation" of department chairs at AAC, all young Americans in their first academic jobs, understood their stay in Prague as a temporary

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23   Milada Polišenská, *Anglo-American College 1990/91-2000/01: Against All Odds* (Prague: Anglo-American University, 2022). The quoted recollections of Richard Jones are in the author's documentation.

24   This is how allegedly Stephen Grant, lecturer and later Chair of Humanities and John Carey II, a lecturer and later Chair of School of Legal Studies, saw AAC at that time. Andersen, Winn. "Anglo-American College in Prague. Positioning for Growth" (C*). International Journal of Entrepreneurship and Innovation,* November 2004, 276–284, p. 3, only in the copy in the AAU Archive, Folder AAC/1994–1995. This section was not published in the printed version.

experience and then left to pursue either PhD studies or other careers. They can be credited with stabilizing the departments, though.

The criticism targeted particularly Schackwitz's managerial style. Reportedly, he had a secretive behavior, did not share the information or communicate with other members of the AAC management and students.[25] Schackwitz acknowledges today that his management style was amateurish.[26] But he was young (23 years old), had just got his Bachelor's degree, this was his first real job, in a foreign country, in Czechoslovakia which had just disintegrated, at a college which did not have any institutional stability, memory and experience, and which was struggling with growing pains. He was given a huge responsibility, he took it with idealism, enthusiasm, goodwill and ambition. He just started to learn the real working environment. His critics were, however, in the same situation. Also young, had just arrived in a foreign country, appointed to responsible academic positions of Chairs of Departments/Schools of Study without previous academic experience other than being a student of master's or unfinished doctoral programs.

Schackwitz also failed to establish a reliable and accurate financial administration.[27] Even if no documents survived, there are testimonies that the administration of school finances was improvised and not qualified. The Board of Trustees was probably not aware of the situation. On one hand, youth, lack of qualification and experience may explain the cause of problems but cannot excuse it. On the other hand, why did the Board entrust such financial and administrative power to a young person whose goodwill, demonstrated skills, but also limited education and deficiencies they knew?

It is clearly documented, however, that in 1994–1996 the college was developing successfully, and without the invention and personal attention of the Administrative Director this promising development would not have been possible.

To the positive achievements of the first two years on Flajšnerka campus belong the Center of Corporate Development and appointment of Bob Chames as its head and Fundraising Director. The college received generous grants and donations from prominent institutions such as

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25 Andersen and Winn, "Anglo-American College in Prague. Conflict and Turnaround in a Nonprofit Enterprise (B)." *Case Research Journal* 22, no. 1 (2002): chapter on AAC's Student involvement. This chapter was not published in the printed version.

26 The quoted recollections of Schackwitz are in the author's documentation.

27 Andersen and Winn, ibid., repeatedly in the cited articles.

Citibank,[28] Colgate-Palmolive, Coca-Cola, ABN-Amro Bank, Erste Bank, Gyrocredit Bank, Price Waterhouse, McDonalds, Arthur Anderson, Access and Synergie.[29] Since the 1990s, such significant sponsorship has not happened. The college had positive publicity, particularly in *Prague Post*, but also in Czech periodicals, such as *Ekonom*.[30] AAC was promoted at high schools in the Czech Republic and at educational fairs in the country and abroad. The unique international character of the college was emphasized by listing students from more than dozens of countries and media headlines such as "Professors from leading American and British universities teach at AAC."[31] However, this was most misleading, because the lecturers at AAC graduated from the leading universities, i.e., "they were from them," but it did not mean that the professors of these universities would come to teach at AAC. Bombastic self-presentation, exaggeration of own qualities and formulation on the verge of reality were a negative manifestation of the efforts of private schools to assert themselves and succeed in the higher education market economy in the first years of their existence. It was one of the justified sources of distrust and doubt about the private higher education sector which impacted the Czech academic environment.

An agreement on mutual recognition of credits was concluded between the Institute of Fundamental Learning of Charles University and AAC, and based on this, AAC students took courses at the most prestigious Czech university. However, Anglo-American College advertised this as having a consortium agreement with Charles University. Contacts with Czech Management Center, U.S. Business School, and other academic institutions were published to document extensive academic cooperation.

In response to the growth of the college and to achieve more balanced structure of the top management, a position of Academic Director was established and placed on an equal level with the Administrative Director. To this position was appointed Richard Jones, an experienced academic from the renowned Netherlands Institute of International Relations Clingendael. He was husband of a Dutch diplomat assigned to the

28 Interview with Bob Chames, *Central European Business Weekly*, 12–18, 1996. AAU Archive, binder MKT 91–99.

29 Andersen and Winn, ibid., *B*, 60, and many promotional and information materials of AAC in the AAU Archive.

30 *Hospodářské noviny*, 16 August 1995. AAU Archive, Folder Articles.

31 AAU Archive, binder MKT 91–99.

Embassy of Netherlands in Prague and joined AAC first as Chair of the School of Humanities.[32] His academic and personal maturity became a stabilizing factor of the college, and during his work at AAC, first as a Chair of Humanities, then Academic Director and finally as head of the college, Jones moved the school to a higher level in all respects.

The Executive Committee was formed in fall 1995 consisting of Academic Director, Administrative Director and Chairs. It assumed control of the day-to-day operations of the college, becoming by 2005 the supreme executive body of AAC. The Registrar's Office was established in response to the rapid growth of the enrolment of students. Starting with the academic year 1995/1996, the Departments were transformed into Schools of Study headed by Chairs and assisted by the Coordinators. The original British character of the school began to be 'Americanized' and American terminology used.

The Board of Trustees meeting on 27 January 1995 amended the AAC Statute, which had been under discussion for several months.[33] The Board of Trustees would now include external members, representatives of major companies, with rights to vote. Members of AAC administration were to resign from the Board and in the future would be only *ex officio* members. The AAC budget was approved, which was something new as well.[34] The requalification authorization of the Anglo-American College was extended for another period of three years by the Ministry of Education in February 1995. This secured AAC's status till 1998. Progress was made at this meeting, but it was by all indications tense and emotionally demanding, as the Board of Trustees sought roles for Raichl and his two closest associates who were members of the first Board of Trustees within the new structure of the AAC. Eventually, a Founders' Board of which they would be permanent members was to be established.

The founder of AAC endured the changes with difficulty, submitted critical memoranda,[35] and addressed students with open letters criticizing the new management of AAC. He felt marginalized and underappreciated.

The number of AAC students had started to grow admirably. In spring 1994, there were 60 students, one semester later the recorded number

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32 Repeatedly in various documents. AAU Archive, Folder AAC/1994-1995. Also see Andersen and Winn, ibid., *B,* 62.

33 AAU Archive, Folder AAC/BoT, 1994–1995.

34 Andersen and Winn, ibid., B, 60, 61.

35 AAU Archive, Folder AAC/BoT, 1994–1995.

ranged between 80 and 100.[36] The TOEFL exam was required now from non-native English students, tuition was set at 24,500 crowns per year for students from the Czech Republic, and 50,000 crowns for foreigners.

The next academic year 1995/1996 started with an American-style orientation. A Scholarship and Financial Assistance Program was established.

The list of courses offered was unrealistically long as it included everything that AAC lecturers could possibly teach, particularly as electives. This maximalist approach was probably due to the effort to show the potential of the school in the best possible light. Eventually Academic Director Richard Jones, who was a significant personality in the history of AAC, consolidated the course offer to avoid the main focus of study programs being diluted.

In spring 1995, a team of four students in Legal Studies represented AAC at the Philip C. Jessup International Law Moot Court Competition in the United States. Their travel and stay was sponsored by a major law firm. In spring 1996 a large international conference, the World Wide Web Conference, sponsored by Radio Free Europe/Radio, took place at AAC. Organizations within the school began to take shape: Faculty meetings were held, the Student Council was established, the students launched The Best Teacher Award, a student newspaper was published, a new AAC logo was designed, volleyball and softball tournaments took place at AAC campus and much more.

On 10 June 1995, the first graduation took place in the beautiful Chapel of Mirrors in Klementinum. How to explain that the students were willing to pay expensive tuition for several years of demanding studies and for just a certificate of requalification courses? AAC students were aware that AAC was not accredited as a college. They expected that they would succeed in their professional careers or further university studies, and despite the lack of university accreditation, AAC graduates generally found good employment, which was a source of positive response and publicity. Still, there was growing impatience and criticism of the AAC leadership for not securing the accreditation, at least a foreign one, as already promised already in 1992.

In the mid-1990s, the higher education landscape in Czechia and Europe was changing. Internationalization was advancing, public universities started offering accredited programs taught in English with low

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[36] AAU Archive, Folder AAC/1994–1995.

tuition fees, which became serious competition for AAC. Branches of foreign, mostly American, and British universities, started operating in the Czech Republic. There was increasing pressure to legalize the private higher educational sector in the Czech Republic. Accreditations by various foreign accreditation agencies were sought by private schools. Because they were often accompanied by cheap and bombastic promotion, they did not have the best reputation in academic circles, and the prevailing view was that these accreditations could simply be bought for money. AAC at least applied for accreditation from the ECBE (European Council for Business Education) in Geneva, Switzerland for its Business Administration program of study.[37] However, the ECBE accreditation was demanding, solid and credible. For AAC, it was an important institutional experience, and the accreditation process had a positive impact on the quality of administration and education at AAC. Candidacy of ECBE accreditation was granted to AAC in May 1997, and the accreditation was awarded in 2000.

Jones's primary task as the head of AAC was a revision of the original AAC Foundation Statute written by Raichl in November-December 1993 and amended by the Board of Trustees on 27 January 1995. He worked on this with Petr Frischmann from Law Faculty of Charles University who became Chair of the School of Law at AAC. The mission of AAC was formulated as follows:

> The objective of the AAC Foundation is to provide western style affordable university level education and other educational services to the community and to support scientific and research work of all kinds, including the publishing of specialized and instructional texts and to support other student activities within the framework of culture and sports.

Jones elaborated the AAC structure in more detail, some bodies were newly established and some were supposed to be established in the future. The new organization included Honorary Council, Founders' Board, Board of Trustees, College President, Director of Administrative Affairs, Director of Academic Affairs, Senate. There were the non-statutory bodies: Academic Council, School Chairs, Director of Library, School Coordinators and others.

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37   See European Council for Business Education, https://www.ecbe.eu/.

The Executive Committee became a key body of the college. It consisted of its Chairman, Chief Financial Officer, Director of Administration and Chairs of the Schools. The Chairman of the Executive Committee was also Chairman of the Academic Council and of the Senate and was appointed by the Board of Trustees.

Jones paid great attention to financial and administrative matters and hired qualified staff to the respective positions. AAC organized a career Forum and a roundtable discussion "Cross-Cultural issues and challenges in the Czech Business Environment Negotiation" held in February 1997 in the luxury Renaissance Hotel, which is today the Hilton, and had frequent and positive publicity in the press, particularly in the *Prague Post*.

The International Institute of Christian Studies in Kansas, USA, approached AAC in May 1997 and expressed an interest in developing a partnership and establishing a department at AAC.

Jones's answer was diplomatic, reserved and cautious. He wrote that "I had nothing *per se* against a Christian college, but I did feel that that was not what the AAC was, or should be,"[38] and he stated that "we must remain liberal in our attitudes and methods."[39]

AAC in the early years suffered from continuous personnel changes and a lack of permanent faculty and academic administrators. This was not just an "AAC case." The instability of academic staff, "flying professors" or "turbo-professors" was a typical feature of academic life in Czechia in the 1990s and even after. The reasons were mostly low salaries at public universities, which forced the academics to take multiple teaching jobs and search for new opportunities. The long-term instability applied particularly to Anglo-American College because of its international character, as it was a temporary haven for many young foreigners coming to Prague and looking for a temporary job in (higher) education.

In the academic year 1997/1998, AAC offered 80 courses, of which 41 were in the School of Business & Economics, 26 in Humanities, and 13 in Legal Studies. Classes had about 20 students, but about a dozen had fewer than 10 students. Tuition was 21,000 crowns per semester for five courses, which was then $600, the students paid on average 4,795 crowns per course ($145).[40] A summer school had been running for three years, since 1995. A winter semester was established in 1998. Thus, the AAC

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38 Jones' e-mail to the author from January 27, 2021.
39 AAU Archive, Folder AAC/1996–1998.
40 Andersen and Winn, ibid., C, 282.

academic calendar had become complete, with two so-called long and two short semesters, all having the full number of teaching hours.

The faculty consisted of 50 lecturers, all of them adjuncts, and 20 people worked in administration. About one third of teachers were Americans, one third Czechs, and one third were reportedly of 15 nationalities,[41] which means that almost every person of this group was of a different nationality. One third of teachers were women, and two thirds of administration were women.

Graduation ceremonies became grand and more elaborate each year with honorary guests in attendance, and in 1998 the U.S. Ambassador Jennone R. Walker attended the graduation ceremony, which took place in the beautiful large hall of the National House of Vinohrady. In 1995, the first 20 students graduated; in 1996, 26 graduated; in 1997, there were 45 graduates, which made a total number of 90 AAC graduates. [42]

On the Board of Trustees, the participation of representatives of major international companies based in Prague continued (TV Nova, Citibank, S. C. Johnson, Sovesco and others).[43] AAC hosted international scholars and noted personalities, such as guest speakers George Schöpflin[44] and Martin Stránský.[45] Student activities developed, including participation at the Mixed University Basketball Tournament in Rotterdam, and several clubs were established.

On 1 January 1998, Act No. 227/1997 Coll., concerning foundations and endowment funds came into effect, based on which the college was to be transformed into a public benefit corporation within a year. Jones who was about to depart from Prague as the diplomatic assignment of his wife ended, made basic preparatory steps for the transformation, but his successor at the head of the institution had to complete it.

Even though under Richard Jones the school was stabilized financially and administratively, its structure was consolidated, and the atmosphere at the college was significantly improved, the consolidation of the college was not yet strong enough to avert the serious shocks and

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41   Ibid.

42   AAU Archive, Folder AAC/1996–1998.

43   Ibid.

44   György (George) Schöpflin (1939–), professor of London School of Economics and School of Slavonic and East European Studies, University of London, politician in Hungary, member of Fidesz, former member of European Parliament.

45   Martin Jan Stránský (1956–), politician, neurologist, writer, publisher of *Přítomnost* and *The New Presence*. His ancestors were the founder of *Lidové noviny* and politician for Austria-Hungary and the First Republic, Adolf Stránský, and a politician and journalist, an important member of the Czechoslovak exile community during WW II and after 1948 Jaroslav Stránský.

conflicts of the period after Jones's departure. Within a few months, the newly stabilized and prosperous college again found itself on the verge of destruction.

After a quick search, Dr. Roger Cole (1935–2019) was hired to assume the position of the head of AAC from the beginning of the new academic year, 1998/1999. Cole was a linguist, retired professor from University of South Florida in Tampa and he knew Prague, as in 1996 he had been a Fulbright Scholar at the Faculty of Arts of Charles University.

He had impressive "grand plans" of which none were achieved, with two exceptions, which have ultimately proved their sustainability. He arranged for the attendance of students from University of South Florida at a summer school in 1999, which established a tradition of student mobility for many years to come. The benefit of Cole's period was the signing of a lease with the Knights of Malta to rent space in their palace, although the relocation of the college from Vysočany took place under Cole's successors. This anchored Anglo-American College in one of the most beautiful corners of historic Prague – Lesser Town.

Cole had enthusiasm, drive, and energy[46] and was demanding. None of the previous heads of college had used the title of president. Cole requested this title and got it. Some conditions Cole dictated went beyond the capabilities of the AAC.[47] During Cole's presidency, several notable changes in the administrative staff were made, and the arrival of several well qualified lecturers was beneficial for AAC. The Office of Student Services, a Language Center and Intensive Academic English Program were founded. Rosemary Taugher, an American tax advisor and human resources expert, was hired by Cole to conduct a thorough "human resources audit," and based on its results Cole appointed her Chief Financial Officer. Her audit, however, subjected all processes, all activities and all sections of the college to an inspection.

The change in the position of head of the college took place at a time when two fundamental issues concerning the functioning of the college had to be addressed. The transformation of the foundation into a public benefit corporation company was very urgent, as it had a deadline set by Act No. 227/1997 Coll. on foundations and endowment funds for the end of the year 1998. Coincidentally, the AAC's authorization to provide requalification education also ended on 31 December 1998.

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46 Andersen and Winn, ibid., C, in various paragraphs of the case study.
47 "Confirmation and conditions of my continued tenure." AAU Archive, Folder AAC/1996–1998. Data quoted in Andersen and Winn, ibid., C, 283, are different.

Moreover, at the end of Richard Jones's office, the Higher Education Act No.111/1998 Coll. was adopted (effective from 1 July 1998). This was the Act that private higher education institutions had been waiting for as it contained provisions for the accreditation of private colleges. Anglo-American College had hoped for almost nine years to be recognized as a higher education institution, and now the path to it was open.

The Anglo-American College, which had been in existence for eight years and had the ambition to apply for accreditation as soon as possible, was not prepared for this step. President Cole found it difficult to orient himself in the Czech university and administrative environment and did not trust the Board of Trustees and those in the college government and administration who were in their positions from the time of his predecessor.

He was unable to manage the situation, and when he received specific questions from students at the meetings, he gave evasive or even misleading answers, for example about accreditation, and it was clear that he was not familiar with the situation and with the huge workload that a first accreditation of a higher education institution entails.[48]

The situation became difficult and the atmosphere at the AAC very tense after the file on transformation of the AAC foundation into a public benefit corporation[49] which had been submitted under the previous management was declined by the court, as was notified to Cole on 1 April 1999. Subsequently, Cole launched a dramatic search for those responsible, accused the Board of Trustees of "illegitimate actions," that the AAC, o.p.s. had been established illegally and in "violation of the AAC Foundation's Statute," and tried to remove the Board of Trustees from power and to nominate a new Board.[50] Cole's reports brim with terms like "crisis," "emergency," "disaster"; he spoke of "extraordinary measures which the college has been forced to undertake to preserve its integrity and even its existence in this emergency" and claimed that "the non-Czech members of the Board of Trustees did not know why and what they were signing." [51]

However, there were people on the Board of Trustees at that time who had been involved with AAC for several years, who were well acquainted

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48 Cole, The State of the College for the upcoming meeting. An address prepared for the AAC Community 19 March 1999. AAU Archive, Folder AAC/1999–2000.

49 In this paper, the Czech acronym for public benefit corporation, o.p.s., will be used.

50 Report on the actions taken by the AAC Executive Committee to insure continuance of the college, April 15, 1999. AAU Archive, Folder AAC/1999–2000.

51 Cole, Report on the actions taken by the AAC Executive Committee to insure continuance of the college, April 15 1999. AAU Archive, Folder AAC/1999–2000.

with the not-for-profit sector in the Czech Republic, and who closely monitored legislative development in this area. There was even a lawyer specializing in NGOs and a former rector of one of the major Czech public universities. The transformation of the AAC foundation into an o.p.s. was in the hands of qualified and involved people.[52]

At Anglo-American College, the situation was discussed again and again at a number of meetings, and the deadline for an appeal was approaching. The current Board of Trustees did not wait any longer and appealed the decision of the court on 15 April. On April 20, 1999, Cole abruptly and prematurely resigned from his position and left the Anglo-American College on April 30. After him, Taugher was appointed Interim President. She was highly efficient but she had little experience in academia; in her conclusions, everyone in the higher management was unqualified and incompetent and the college needed a thorough change.[53] Her disciplinary enforcement approach did not help build a collegial and cooperative atmosphere. Taugher resigned and left the college in July 1999.

Cole and Taugher were examples of how some foreign, especially American, executives and managers did not succeed when trying to implant a system they knew into local conditions, as they failed to learn and understand, and were not open to collaboration. This study evidences that at AAC, the synergy of both influences proved to be beneficial and yielded good results in many ways, but Cole and Taugher are an example of the opposite.

Despite all the crises at the level of government and management of AAC that have just been described, the college as an educational institution functioned well. This was mainly due to the effective functioning of the Schools of Study. The college had an admirable growth of students (almost 400 in 1998/1999). Study programs prospered, and the School of Legal Studies in particular was proud to participate in organizing Legal Continuing Courses for the John Marshall School of Law from Chicago in the Bar Association.

Richard Lester Smith was, from November 1999, the next President. He had joined AAC in fall 1995 as a missional professor from the International Institute of Christian Studies (IICS) in Overland, Kansas.[54]

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52 These members were Ladislav Venyš, Petr Pajas, Lenka Deverová and Štěpán Müller.

53 Taugher, Report and compiled documents, July 31 1999. AAU Archive, Folder AAC/1999–2000/ Taugher.

54 "Institutional Partnerships," Global Scholars, https://global-scholars.org/who-we-are/ministry -partners/.

The original plan to establish a Department of Christian Studies at AAC as an autonomous unit with a strong financial background from IICS had failed because of the reserved stance of the AAC head Jones. Smith then had founded a church-oriented Comenius Institute in Prague[55] and signed with Jones's successor Cole a cooperation agreement between the two institutions on the establishment of Christian Studies at AAC.

Even though AAC stayed a non-religious institution, Smith's protestant background was visible in his frequent quotations of Jan Hus, in transferring the graduation ceremonies to the Betlehem Chapel, and in bringing several lecturers supported financially by the International Institute of Christian Studies. Smith was a skilled speaker and manager. In an dramatic opening statement of his presidency[56] he characterized the corporate culture at AAC entirely negatively, as being:

> Hostile working environment, climate of distrust, disrespect and fear, gossip, slander, blame shifting, complaining, dishonesty, misrepresentation, secrecy, lack of a chain command, little decentralization of responsibility and decision-making, weak accountability, and policy enforcement.

This was, by his words, the state of the college when he took it into care. The message then was that under a new leadership the situation would change for the better.

Smith designed two priorities: o.p.s. registration and accreditation as a higher education institution. Richard Smith addressed the issue with energy and determination. However, a precondition was registration as an o.p.s. Unbelievably, Anglo-American College operated as a foundation until mid-2000, thanks to the helping hand of the Ministry of Education, which allowed the college to operate based on the old trade license of the founder of AAC. The college submitted a new application for registration as an o.p.s., this time under the name Anglo-American Institute of Liberal Studies. The reason for the new name, which was not fully accepted within the AAC community even though there was no opposition to it, was that the appeal against the rejection of AAC, o.p.s., had still not been responded to. The registration as an o.p.s. went through successfully in summer 2000. This made it possible to apply for higher education accreditation.

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55 On Comenius Institute, see Komenského institut, http://www.komenskyinstitute.com/.
56 Richard Smith, Report to the BoT, November 29, 1999. AAU Archive, Folder AAC/1999–2000.

It was a demanding and difficult work, in which cooperation between Czech and American administrators resulted in a positive result. The contribution of doc. Štěpán Müller, now Chairman of the Board of Trustees, an experienced academic and former rector of University of Economics and Dean of the Czech Management Centre in Čelákovice, was invaluable.

The new Statute and a set of internal regulations including Academic Code, Admission Code, Examination Code, Scholarship Code and others were drafted and the curricula of programs of study reviewed. In 1999/2000, the tuition was set at 33,000 crowns for Czechs and Slovaks and 47,000 crowns for foreign students. AAC provided Need-Based and Merit-Based scholarships, and the college was successful in gaining sponsors to support students; for example, that year Erste Bank granted $500,000 in scholarships.[57]

Richard Smith planned to build contacts and cooperation in the United States. The outcome of his efforts was an agreement with Central Michigan University (CMU) in Mt. Pleasant, USA, signed on 15 June 2000. The so called "3+1 program" was successful, and in the following years some AAC students benefited from the opportunity to live and study in the United States and earn a bachelor's degree from an American university in addition to an AAC diploma.[58] Other plans did not materialize: AAC hoped in vain to get finances, and the hopes of CMU to transform the AAC into its base abroad failed as the AAC administrators were afraid of losing their independence.[59] As for international cooperation, AAC (AAILS respectively) reported at that time partnership with University of South Florida, Central Michigan University and Covenant College, which was another Protestant College in the United States which had become involved with the AAC. Substantial expansion of international cooperation came with the first Erasmus agreements, which was possible only after the accreditation.

The accreditation dossier was submitted twice. The first application required immense and demanding work which AAC had never before undertaken. The Ministry of Education officials were supportive and provided useful advice. It was well known that AAC operated as a college and not as a provider of post-secondary requalification courses, and therefore the wording and terminology had to be chosen carefully. In the accreditation dossier, on the advice of the Ministry of Education, instead

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57 Course Catalog 1999/2000, AAU Archive, Handbooks, Catalogs and Prints Collection.

58 AAU Archive, Folder AAC/1999–2000/2001.

59 The quoted recollections of Richard Jones and Petr J. Pajas are in the author's documentation.

of college "an educational institution using teaching and learning methods like a tertiary education institution" was used.

The first application was withdrawn after reconsideration in May 2000, and another six months of work on it followed. The main reason was that it was submitted prior to registration as an o.p.s. Most importantly, the intention to accredit the Legal Studies program was dropped. This was a painful decision as Legal Studies had been the AAC's priority program, always cited to confirm the college's qualities. On 31 January 2001, the application for accreditation was submitted for the second time.

On 20 March 2001, President Smith resigned from his position for private reasons. Mitchell Young, who was Vice President for Academic Affairs, was appointed Acting President effective immediately.

The decisive meeting of the Accreditation Commission was held on 24 April 2001 and the result was successful. The proposed programs and fields of study Economics and Management and Humanity Studies with a field of Applied Social Sciences were recommended by the Accreditation Commission to the Ministry of Education for accreditation. State approval for the AAILS, o.p.s. to operate as a private higher education institution was granted. The official Resolution of the Ministry of Education was issued on 29 June 2001.[60]

To conclude, Anglo-American College was the first private educational institution at a bachelor's level that was established in our country, but its status as a college was not legally recognized due to the absence of a corresponding law on accreditation. The state approval of the college and accreditation of the first two bachelor's programs took place in 2001. This study therefore examined the first ten to eleven "non-accredited" years of the AAC's existence.

During this period of time, particularly in the beginning, there was a noticeable idealism and philanthropy. Idealism surfaced in the first formulation of mission and vision, and philanthropy proved itself in a number of real life situations and decisions.

At the same time, the college established itself as an actor of the market economy. The paper attempted to shed light on idealism and capitalism in the functioning of the AAC using a number of specific examples.

There were conflicts in the management: excellent performance and often enthusiastic solutions clashed with poor management and lack of foresight. The promotion of the school and marketing was negatively

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60   AAU Archive, Folder AAC/1999–2000/2001.

affected by the ignorance of the academic context, inexperience and the effort to enter the market aggressively.

There was a power struggle in AAC management for most of the examined period. Not only various managerial concepts clashed, but personal ambitions, disappointment and loss of idealism also intertwined. Manifestations of both idealism and capitalism on the strongest side of the scale had their effects on the functioning of the school, as did interpersonal relationships, the working climate, and perception of the school in academia.

The best promotion of the school was quality teaching, and it must be acknowledged that the young teachers who worked at AAC really tried to do so. Although there were sharp conflicts in management, teaching and other activities went well, and particularly academic and administrative management at the middle level, especially the Chairs of the Schools, seemed to have the great credit for keeping the school going.

The accreditation process was not easy for the AAC, and various symptoms surfaced, such as a distrust of foreign AAC administrators towards the Czech administrative environment, underestimation of the complexity of the accreditation process, and language difficulties. At the same time, the accreditation process increased the quality of AAC, bridged the distrust and brought an important institutional experience to the AAC.

The author suggests a correction to the stereotypical prejudice about the Ministry of Education's reluctance towards the private higher education sector, as the research confirmed that the Ministry of Education supported and assisted the AAC in a number of critical situations with qualified and constructive advice and concrete help without which the school would not have survived its crises.

Both idealism and capitalism were present in the history of AAC, which went through its formative years against the backdrop of the so-called Wild Nineties and emergence of "academic capitalism."

AAC had its distinctive ethos, mission and vision of bringing the Western type of education in English to Central Europe. Its core appeared already when the college was founded. Over time, this mission proved its vitality, and is recognized to this day for more than thirty years. One must ask to what extent it is a symptom of stability and continuity, or an obstacle to adaptation of the institution to changing conditions in academia and in society. How much does apply here the statement of T. G. Masaryk that the states (in this case the school) are sustained by the ideas from which they arose.

Sinology and Area Studies: Recent (Con)fusions

Olga Lomová

This chapter presents Sinology, a field of study and research from the broader family of what is still called in Eastern Europe "Oriental studies," in a historical perspective and in the specific context of Charles University. Part of this overview is an introduction of the concept of area studies and its transformations, including some past debates about their value compared to "more scientific" social sciences. By doing this I address the diversity of local disciplinary traditions, and eventually point to the (in)compatibility of different classifications and institutional frameworks, and the pitfalls of transfer between them when it comes to administrative decisions regarding research management.

The chapter traces the transformation of the epistemic basis of Czechoslovak Sinology in the second half of the twentieth century and takes note of tendencies analogous to area studies, a specific product of postwar US academic reforms, including the reorientation toward new topics and multidisciplinary conceptions of Sinology. Past discussions clarifying the position of area studies between the humanities and social sciences are presented as well. It turns out that a similar transformation of teaching and researching about China (and other non-Western cultures) under the conditions of the Cold War took place on both sides of the Iron Curtain, but within different institutional frameworks and under different names. Whereas in the US, and later in some European countries as well, the study of modern Chinese society and culture split from classical Sinology and was newly institutionalized as Chinese studies, in Czechoslovakia a similarly oriented research and teaching focus remained within the framework of the original "Oriental studies" and was referred to as Sinology. A by-product of this approach in socialist

Czechoslovakia was innovative transdisciplinary research and also the expansion of the meaning of the word *Sinology* in the Czech language, which now commonly refers to knowledge and learning about any aspect of China's past or present. Thus, despite the East–West division of the world during the Cold War, a de facto convergence took place between area studies in "the West" and Oriental studies in "the East," different institutional settings and different names notwithstanding. After the fall of the Iron Curtain, these analogous developments facilitated the integration of Czech Oriental studies, including Sinology, into the international academic community. Contrary to this evolution, "area studies" have been recently introduced at Charles University as a new discipline, or rather as a subdiscipline of political science. This innovation using an imported, but reinterpreted, concept distances Czech academia from international trends and unwittingly creates barriers where they did not exist before.

Sinology

The beginning of Sinology as an independent discipline in Europe dates to 1814, when a chair of "Chinese and Tatar-Manchu language and literature" was established at the Collège de France in Paris. As the name suggests, Sinology was supposed to be the "science of China" and as such has from the beginning sought a comprehensive understanding of Chinese culture. In the spirit of nineteenth-century European humanities (the social sciences did not yet exist), this meant learning about the spiritual world of ancient China and its roots in the sacred canonical books, and on this basis understanding the essence of a distant civilization in the sense of "knowing the spirit of a nation."[1] Learning about China became an independent discipline at a time of growing European encounters with the Far East. The decision to teach Manchu along with the Chinese language was conditioned by the situation in China, ruled by the Manchu dynasty, where Manchu was, alongside Chinese, the official language until 1911.

Sinology developed alongside other "Oriental studies," that is, philological disciplines focusing on the languages and literatures of the Near

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1   "Filologie," in *Ottův slovník naučný*, Vol. 9 (Praha: J. Otto, 1895), 221. The author of the encyclopedia entry was Orientalist Rudolf Dvořák.

East and India. Academic Sinology took shape in the nineteenth century in a way analogous to classical philology, its basis being knowledge of a dead language (classical Chinese) and the sacred texts written in it. In dialogue with nineteenth-century classical philology, and in part with biblical exegesis, Sinology developed methods of textual criticism, philological analysis, and procedures for translating. Toward the end of the century, Sinology embraced positivist historiography as well. The paradigmatic output of classical Sinology is a translation of a canonical book, supplemented with extensive prolegomena and detailed annotations touching on various linguistic and cultural-historical aspects of the work, including laboriously reconstructed details of material culture, historical geography, and so forth. The preparation of such a translation was necessarily a multidisciplinary endeavor as it required, in addition to knowledge of the source language, a broad familiarity with other fields as well. In this sense, classical Sinology was open to other disciplines since its inception.

Ancient (and, after the discovery of the Dunhuang manuscripts, medieval) texts remained the main focus of Sinology in the first half of the twentieth century, but the field naturally evolved toward greater thematic and methodological diversity and deepened its multidisciplinary character. Historiography, in particular, was richly developed, encompassing the newly emerging archaeology of China; the foundations of Chinese art history were laid; and important works in the fields of religious studies and Buddhology were produced. Marcel Granet, the most important Sinologist of his time, whose teacher was also Émile Durkheim, linked the study of ancient texts with the general theory of the sociology of religion. In the first half of the twentieth century, the first European studies documenting contemporary China also appeared, but in general, modern themes remained rare.[2]

Until the end of World War II, Sinology was a small, exclusive field, concerned with the ancient past and cultivated in a few select schools on the fringes of other humanities. As late as 1958, a group of Chinese intellectuals criticized (as we shall see, not entirely fairly in view of the development of area studies in the US) the indifference of Western Sinologists to the Chinese present. In Hong Kong, where these critical scholars had gone into exile after the Communist victory in China, they published a manifesto in defense of Chinese culture. In it, they mention

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2   Herbert Franke, *Orientalistik*, Vol. 1, Sinologie (Bern: A. Francke, 1953).

with some disdain that Sinologists, "driven by curiosity," study Chinese culture, both spiritual and material, with the same interest that others study the dead civilizations of ancient Egypt and the ancient Near East, while ignoring living China.[3]

Chinese Studies

World War II demonstrated with all its urgency the global interconnectedness and the need for a deeper understanding of the world. It was no longer possible to ignore contemporary China, one of the Allies, a permanent member of the newly established United Nations Security Council and, since 1949, a major Communist power alongside the USSR. The "science of China" accordingly began to transform in terms of subject matter and research methods. These changes occurred most rapidly in the US and were linked to a broader project, a new category of academic disciplines: area studies. Area studies, a concept which eventually spread to parts of Europe as well, were conceived and institutionalized in the US as a specific mode of inquiry open to transdisciplinary approaches and were driven in their methods by the awareness of the linguistic and cultural specificity of different, predominantly non-Western areas of the world.

It was in this spirit that the discipline of Chinese studies was established in the US. Compared to the older Sinology, Chinese studies turned away from the preoccupation with ancient civilization and focused on China's recent past and present. One of the central themes of the new Chinese studies became China's encounters with the West in the nineteenth century and issues related to the process of modernization.[4]

The emergence of area studies is usually understood as a product of US geopolitical ambitions during the Cold War (as part of "knowing

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3   Mou Tsung-san, Hsü Fu-kuan and T'ang Chün-I, "*Wei Zhongguo wenhua jinggao shijie renshi xuanyan* (Hong Kong, 1958), https://humanum.arts.cuhk.edu.hk/. For a shortened English translation, see "Manifesto for a Reappraisal of Sinology and the Reconstruction of Chinese Culture," in *Sources of Chinese Tradition*, Vol. 2, ed. William Theodore De Bary and Richard Lufrano (New York: Columbia University Press, 2000), 499–505.

4   On the role of modernization theory in the creation of area studies in general, see "What Is Area Studies," in *Seeing the World: How U.S. Universities Make Knowledge in a Global Era*, eds. +L. Stevens Mitchell, Cynthia Miller-Idriss & Seeteny Shami (Princeton: Princeton University Press, 2018), 27–38.

your enemy").[5] What is rarely discussed is that this thematic and methodological turn also resulted from the internal evolution of the discipline of Sinology, the development of the humanities in general, and the agency of scholars themselves. The new orientation of research about China, as institutionally framed in the new concept of Chinese studies, can therefore also be seen as part of an intrinsic academic process within Sinology. As mentioned, interdisciplinary research framed by general theory already appeared in Marcel Granet's work before World War II, and interest in contemporary China had been slowly growing since the 1930s as a result of more frequent contacts between Western scholars and their Chinese counterparts. At that time, some American scholars – like John King Fairbank, later an important figure in postwar Chinese Studies – conscious of the limits of classical Sinology mired in the ancient past, promoted the idea of teaching modern Asian history at US universities.[6] Similarly, Jaroslav Průšek, a leading figure in postwar Czechoslovak Sinology, had already published on literary and cultural modernization in contemporary China during World War II and would probably have pursued these topics regardless of postwar politically driven demands.[7]

The concept of area studies discussed in the US since the 1940s was based on the notion of geographical areas as units characterized by "highly individualized social and historical configurations in which a variety of facts and events are interrelated in complex and specific ways."[8] This means that research into the various aspects of the society and culture of a given area must be approached with an awareness that they are mutually contingent and cannot be fully understood if examined individually

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5   There are many overviews of this history. For a recent European perspective in the context of other social sciences and humanities, see Stefi Marung & Katja Naumann, "Oriental Studies in the United States," in *The Making of the Humanities,* Vol. III (*The Modern Humanities*), eds. Rens Bod, Jaap Maat & Thijs Weststeijn, (Amsterdam: Amsterdam University Press, 2014), 421–425. See also Immanuel Wallerstein, "The Unintended Consequences of Cold War Area Studies," in *The Cold War & the University: Toward an Intellectual History of the Postwar Years*, ed. Noam Chomsky (New York: New Press, 1997), 195–231.

6   On Fairbank, see Paul M. Evans, *John Fairbank and the American Understanding of Modern China* (New York: Blackwell, 1988).

7   Olga Lomová, "Jaroslav Průšek (1906–1980): A Man of His Time and Place," *The Journal of the European Association for Chinese Studies*, 2 (2021): 169–196, https://journals.univie.ac.at/index.php/jeacs/article/view/6562/.

8   Werner J. Cahnman, "Outline of a Theory of Area Studies," *Annals of the Association of American Geographers* 38, no. 4 (1948): 40, citing David F. Bowers, "The Princeton Conference in American Civilization: A Description and an Appraisal" (Princeton, New Jersey: Princeton University Press, 1944).

outside of their original context. To this end, area studies, Chinese studies included, were to encompass both philological and cultural-historical dimensions as well as the theories and methods of the social sciences. Their aim was thus to expand on philology's earlier aspiration to "know the spirit of a nation," that is, to enable "a comprehensive understanding of a given area, country, nation, or civilization."[9]

The original concept of area studies as preoccupied with ethnographic description based on sources in the language of the area was formulated by social scientists who found their theory-based knowledge of human society insufficient. One of the most important proponents of area studies, Robert B. Hall, a respected sociologist who did research in rural Japan, described this new discipline as beneficial to the one-sided theory-driven approach of the social sciences by providing them with a new perspective mediated through language and culture.[10] He even anticipated that area studies would play an integrating role in the social sciences, which, in his view, were experiencing a "profound crisis" as the study of social reality had been fragmented into isolated disciplines and mutually exclusive theories. Hall and others also pointed out that the general theories formulated in the social sciences were originally based on observations of mere slices of human experience, usually American, and that to formulate truly general and universally valid theories, their generalizations must also incorporate experiences from other parts of the world.[11]

Developments in the social sciences, however, soon took another direction from what the original proponents of area studies envisioned, demanding scientific exactness in the manner of the technical and natural sciences.[12] The production of knowledge in this spirit was based on mostly quantitative methods and general theories and models, which were supposed to guarantee objectivity and accuracy, and thus to enable predictions of future developments. In contrast, area studies take a bottom-up approach to the object of their interest in the geographical areas under study, from the perspective of the individual and the unique, and typically do not aspire to formulate general theories. Area studies soon

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9   Ibid.

10   Robert B. Hall, *Area Studies: With Special Reference to Their Implications for Research in the Social Sciences* (New York: SSRC, 1947), https://hdl.handle.net/2027/uc1.$b169219/.

11   Hall, *Area Studies,* 23. On ideas about the relationship between idiographic area studies and nomothetic social sciences, see also Immanuel Wallerstein, 1997.

12   Joel Isaac, "The Human Sciences in Cold War America," *The Historical Journal* 50, no. 3 (2007): 725–746.

found themselves at the center of controversy, with critics from the social sciences arguing that they lack a scientific theory of their own and thus cannot match the scientific value of social sciences, which view the world through the prism of theories and general models.

The first significant landmark in clarifying the positions in this debate came during a special panel held at the annual conference of the Association of Asian Studies in Washington in March 1964.[13] With the exception of British anthropologist Maurice Freedman, who recommended that Chinese studies turn fully to the social sciences, the other presenters, to varying degrees, advocated the integrative quality of the area studies approach and pointed out the limits of "general" social scientific theories for properly understanding Chinese society and culture. The discussants did not reject the need for social sciences altogether; they just argued that without understanding China as a coherent whole (Mote) and its uniqueness (Skinner), the social sciences as such could not claim their theories were generally valid. For this reason, research on China-related topics could not be left in the hands of social scientists who lacked language and culture training. The view was also reiterated that area knowledge has the potential to enrich general theories with previously unreflected experiences of the Chinese world (Mary Wright).

In practice, the contradiction between the knowledge-of-the-area approach (descriptive, idiographic) and the social-sciences approach (theory driven, nomothetic) within Chinese studies, as in many other area studies, is not so absolute. Perhaps with the exception of economics and some branches of political science,[14] the area approach, which takes into account the linguistic, cultural, and historical uniqueness and self-narratives of the society under study, is also becoming an integral part of research in social sciences, while theory-driven research is making

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13 Part of the discussion was published in the same year in two numbers of the *Journal of Asian Studies* 23 under the headings of "Symposium on Chinese Studies and the Disciplines," no. 4 (1964), and "Comments on the 'Chinese Studies and the Disciplines' Symposium," *Journal of Asian Studies* 24, no. 1 (1964). Quoted in this article are the following published contributions from no. 4 of the journal: Joseph R. Levenson, "The Humanistic Disciplines: Will Sinology Do?," *The Journal of Asian Studies* 23, no. 4 (1964): 507–512; Mary C. Wright, "Chinese History and the Historical Vocation," *The Journal of Asian Studies* 23, no. 4 (1964): 513–516; William G. Skinner, "What the Study of China Can Do for Social Science," *The Journal of Asian Studies* 23, no. 4 (1964): 517–22; Maurice Freedman, "What Social Science Can Do for Chinese Studies," *The Journal of Asian Studies* 23, no. 4 (1964): 523–529; Frederick W. Mote, "The Case for the Integrity of Sinology," *The Journal of Asian Studies* 23, no. 4 (1964): 531–534; Benjamin Swartz, "The Fetish of the Discipline," *The Journal of Asian Studies* 23, no. 4 (1964): 537–538.

14 Mitchell L. Stevens, Cynthia Miller-Idriss and Seeteny Shami, *Seeing the World: How U.S. Universities Make Knowledge in a Global Era* (Princeton, New Jersey: Princeton University Press, 2018).

inroads into humanities such as literature and art history. Area studies have also evolved in many different ways, especially after the cultural turn, and are naturally of a varied nature. What remains a signature mark of area studies is their linguistic focus, respect for local cultural differences, and contextualized multidisciplinary approach.[15] David Szanton defines area studies as "an umbrella term for a family of academic disciplines and activities" in which five principles are intertwined: 1) intensive language study; 2) field research based on local languages; 3) attention to local histories, perspectives, materials, and interpretations; 4) testing, critically reassessing, or creating grounded theories based on detailed observation; and 5) multidisciplinary conversations often across the boundaries of the social sciences and humanities.[16]

Czech(oslovak) Sinology

In the former Czechoslovakia, as is the case elsewhere in Europe, modern studies about China were built on the tradition of Oriental studies. The origins of Czech Sinology date to the late nineteenth century, to the work of Rudolf Dvořák, the first professor of Oriental philology at the Czech university in Prague. In addition to producing critical editions and translations from Persian, Arabic, and Hebrew, he also published translations of Confucian classics and the *Daodejing*. After Dvořák's untimely death in 1920, the first chair of Sinology was established only in late 1945 as "Philology and History of the Far East," which included the study of Japan and, a little later, Korea. As a result of the Communist victories in both Czechoslovakia and China in the late 1940s, Czechoslovak Sinology experienced rapid development driven by political interests not unlike those of American area studies, albeit with different geopolitical objectives. This also translated into new topics and approaches to studying China. While there was no institutional split between Sinology as classical

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15 After E. Said's *Orientalism* and the rise of cultural studies, area studies were subjected to more critical scrutiny as they were accused of reproducing Orientalist prejudice in the service of Western hegemony. Since this discourse did not enter in full Czech academia yet and currently does not substantially impact the humanities–social sciences division central to our discussion, I exclude it from my brief overview. For a succinct presentation and innovative contribution to the discussion about area studies in twenty-first century, see Heike Holbig, *The Plasticity of Regions: A Social Sciences–Cultural Studies Dialogue on Asia-Related Area Studies*, GIGA Working Papers No. 267 (March 2015), http://www.giga-hamburg.de/workingpapers/.

16 David L. Szanton, "Introduction," in *The Politics of Knowledge: Area Studies and the Disciplines* (Berkeley: University of California Press, 2010).

philology and a new discipline of the "Chinese studies" type, the field turned also to topical issues and expanded its multidisciplinary nature. Postwar Czechoslovak Sinology encompassed both ancient and modern China, while it at the same time introduced new disciplines such as theater studies, art history, musicology, philosophy, modern and contemporary history, and political science. Methodological innovation was crucial, namely from semiotics and structuralism, and of course Marxism.[17]

The institutional preservation of Sinology as one broad field of studies focused on China facilitated the development of a specific feature of Czechoslovak Sinology, namely the integration of knowledge about the classical and modern periods. This pioneering approach, for which Czechoslovak (and today Czech) Sinology earned an international reputation and is known as the "Prague School" among scholars of Chinese literature, views the question of modernization, central to area studies in the US, in its own way. From quite early on, Czechoslovak scholarship focused on the complexity of cultural transfer as part of modernization in which domestic conditions determine how new impulses are received and transformed in a modernizing country.

The persecution and tightened surveillance of the academic community after "allied" Warsaw Pact troops suppressed the Prague Spring in August 1968 marked the end of the activities of a significant part of Czechoslovak Sinologists and also interrupted the international academic contacts that had existed until then. Sinology's position within Czechoslovak academic institutions was further complicated by the fact that the People's Republic of China (PRC) used the Soviet-led attack on Czechoslovakia as evidence of Soviet "social imperialism" – against which China promoted its own version of Communist orthodoxy. As a result, the ideology and politics of the PRC, obligatorily interpreted from the perspective of the official Soviet "critique of Maoism," became the main subject of Sinological study and research at Charles University and the work of scholars at the Oriental Institute of the Czech Academy of Sciences during the so-called period of normalization from the 1970s through 1989.

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17 Sinology as a broad term encompassing research on both old and new China, language and culture based but at the same time involving social sciences, has also recently been revived in the concept of New Sinology vigorously promoted by the Australian scholar Geremie Barmé. He first described his concept in his "Towards a New Sinology," *Chinese Studies Association of Australia Newsletter* 31 (2005). See also his "What is New Sinology," in *A New Sinology Reader*, The Wairapa Academy for New Sinology, https://chinaheritage.net/reader/what-is-new-sinology/.

The preservation of Sinology as a holistic category that encompasses all research on China, regardless of the internal dynamics of the evolution of its content and methods, is related to the different ways in which universities functioned in Czechoslovakia (and function today in the Czech Republic) as compared to the United States, including funding. In fact, the terminological distinction between Sinology and Chinese studies, which gradually spread to some European countries, has been by no means universally adopted in Europe. Many German universities and the University of Zurich, Ghent University, and KU Leuven, among others, retain the original designation of *Sinology* regardless of the expanding scope and methods of research. Due to the general development of studies about China over the decades, and due to the diversity of approaches in Europe, the more conservative term *Sinology* and the new term *Chinese studies* can now mean essentially the same thing. The ambiguity in terminology is illustrated by the history of the name of the European professional association representing scholars researching China. It was founded shortly after World War II as the Junior Sinologues Conference, but it was renamed the European Association for Chinese Studies in 1976, when the US concept of area studies was gaining ground in Europe. The interchangeability of these two labels for China-related studies is reflected in the way in which the European Association for Chinese Studies lists relevant European institutions on its website as "Sinological," regardless of their profile.[18]

Area Studies and Social Sciences Differently

As a result of the division of the world during the Cold War, the Czech academic environment was confronted with the concept of "area studies" only after 1989. This was at the same time that the social sciences in Czechoslovakia, decimated during normalization by the demands of ideological conformity, were only beginning to recover and could hardly offer new inspiration to studies about China in terms of multidisciplinary teaching and research.

Thus, the concept of area studies was encountered only in an unreflected way, mostly through personal contacts. The first meetings after

18 "Sinological Institutes," European Association for Chinese Studies, last modified 2022, http://chinesestudies.eu/?page_id=1293/.

the Velvet Revolution between Czech Sinologists and their American colleagues introducing the Chinese studies concept did not always result in full mutual understanding. While some Czechs considered methodological innovation in the manner of Chinese studies without fully understanding the complex institutional background of area studies in general, the American scholars admired the solid linguistic foundation of Czech Sinology, including the study of the classical language and other practices in Czech Sinology that enabled applying knowledge about China old and new in a productive dialogue.

A similar discussion of the relationship between "areas" and "disciplines" as we have recapitulated above has not yet taken place in Czechoslovakia (since 1993, the Czech Republic), although the recently established Chinese language and culture program at Masaryk University in Brno now offers degree programs in "Chinese studies." However, in terms of content, the new program in Brno does not differ substantially from "Sinology" in Prague.

What has happened, however, has been the emergence of the new discipline of "area studies" (*areálová studia* in Czech) in Czech academia reinterpreted in the narrowly defined sense of "international area studies" and as a branch of political science, interchangeable with the notion of international territorial studies (*mezinárodní teritoriální studia*).[19] In this peculiar manner "area studies" have been introduced at Charles University's Institute of International Studies at the Faculty of Social Sciences, whose "current structure is the result of a long-term process characterized by, among other things, the purposeful formation of a new field of study, Area Studies."[20] The institute's website provides a very narrow definition of area studies, highlighting the importance of the "new field … for the further development of the practice of Czech foreign and domestic policy." In other words, the concept of "area studies," unlike its original broader meaning, commonly used internationally, was introduced in Czech academia as limited to a practical branch of political science. On the same website we read that graduates of this program are "oriented toward the practical implications of recent historical events and relevant

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19   See also the entry on Czech Wikipedia, which presents "teritoriální studia" as a Czech version of the English "area studies" entry at "Teritoriální Studia," Wikipedia, last modified April 1, 2022, https://cs.wikipedia.org/wiki/Teritori%C3%A1ln%C3%AD_studia/.

20   "Institut", Institut mezinárodních studií, FSV UK, last modified 2022, https://ims.fsv.cuni.cz /institut-ims/. In the Czech version both "teritoriální studia" and "area studies" are mentioned as being equivalents.

contemporary issues [and] equipped with basic analytical-interpretive skills," while understanding of an area through its language and culture as included, for example, in Szanton's definition is not considered.

The transfer of the originally American concept of area studies to the Czech academic environment and its institutional reinterpretation in a very narrow sense differs from the prevailing international practice. For example, the Leiden University Institute for Area Studies (LIAS), which among other offers a program in Chinese studies, broadly defines its mission on its website as encompassing both the humanities and the social sciences and historical periods old and new. Above all, it emphasizes that its various fields of study are anchored in the languages and cultures of the respective areas, concluding with a statement that brings together the humanities and social sciences: "The areas studied are not only regarded as sources of data, but also as sources of theory and method that challenge disciplinary claims to universality."[21]

Institutional Interventions

Using an imported concept in a radically narrowed-down meaning might not be detrimental for the development of full-fledged area studies in the sense these have been practiced for decades at Charles University. However, a serious problem may arise when a non-standard classification is projected into administrative categories on the basis of which the international assessment of academic excellence is conducted, followed by a new system of distribution of funding for research within the university. This is what happened at Charles University in 2021.

Sinology at Charles University has traditionally been classified as a "philological discipline." This corresponds to the field's roots in Oriental philology, its grounding in teaching languages and working with texts (written and spoken), and its research methods, which, as suggested above, are based on the awareness of language's role in mediating and shaping Chinese reality. However, the thematic breadth and multidisciplinary nature of Sinology as it is cultivated today at Charles University does not correspond to the current common understanding of the word *philology* as solely "the study of language and literature." Narrowing its

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21   "Leiden Institute for Area Studies (LIAS)," Universiteit Leiden, https://www.universiteitle iden.nl/en/humanities/institute-for-area-studies/.

scope to language and literature in the current sense of these disciplines diverges from both the original meaning of Sinology as a holistic "science of China" and the twenty-first-century inherently multidisciplinary approach to China-related issues with overlaps between the humanities and social sciences. The openness of Sinology to different disciplinary approaches is a guarantee of its intrinsic strength and its ability to creatively develop its knowledge base, ask new relevant questions, and, finally, also to be legible to international partners in academic exchange.

Czech society today also expects more from a Sinologist than just knowledge of language and literature. In the Czech Republic, Sinology is still understood in a broad sense as "the science of China," and the range of job opportunities for Sinology graduates corresponds to this notion. In the first place, the Czech public assumes that a Sinologist "knows Chinese," but at the same time it demands from him or her broad knowledge of a universal "China expert." In an era of globalization and increasing geopolitical tensions, some of the most sought-after areas of expertise are in Chinese politics, international relations, ideology, and current issues in Chinese society and economics. The assumed expertise translates into media favor given to "Sinologists." Their authority in the Czech media is so great that even a social scientist without a background in Chinese studies may succumb to the temptation to present himself as a "Sinologist" when commenting on Chinese politics in the media.[22]

The consequence of the established classification of disciplines at the Faculty of Arts of Charles University was that despite the evolution of Czech Sinology in the direction of multidisciplinary teaching and research and the widespread understanding of Sinology as much broader than "language and literature" studies, in the academic excellence assessment of 2021 it was not considered to be a distinct field but was split into the disciplinary categories of "linguistics," "literature," and so forth. As a result, Sinology (and other similar disciplines) were essentially lost from the assessment, and it was therefore not possible to credibly fulfill the stated aim "to provide the necessary information to ensure internationally comparable quality of the disciplines,"[23] not to mention to provide feedback for the disciplines themselves.

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22 See brief biography of Richard Q. Turcsányi, a young scholar of international studies, at "Richard Q. Turcsányi," *Lidovky*, https://www.lidovky.cz/novinari/richard-q-turcsanyi.N4530/.

23 "Opatření rektora č. 44/2018 ve znění Opatření rektora č. 8/2019," Univerzita Karlova, https://cuni.cz/UK-9615-version1-or_2019_08_pril_9.pdf/.

The quality assessment was followed by the preparation of new funding rules for research at Charles University with the objective to bring together fields of research of a similar nature to overcome excessive disciplinary fragmentation. In this process, contrary to the current practice in important centers of area studies in Europe which strive for interdisciplinarity, the social sciences and humanities were strictly separated from each other, and Sinology in the capacity of "philology" found itself associated with other "language and literature" research. It was only due to the intervention of several departments at the Faculty of Arts, including the Department of Sinology, that the classification was adapted to the actual practices of area-based fields of study. Eventually room was made in the classification for a separate group bringing together Asian studies (including Sinology), Middle Eastern studies, and Eastern European studies. However, they were denied the most obvious umbrella designation of "area studies," which within Charles University's classification scheme remains exclusively a practical skills-oriented subcategory of political science.

The peculiar interpretation at Charles University of the meaning of the recently imported notion of area studies and its incorporation into the mechanism of academic management demonstrates the risks of one-sided administrative intrusion into established practices. In the name of "internationally comparable quality," the top-down arrangement threatened the identity of some linguistic-and-cultural-knowledge-based disciplines, which has developed over a long period of time in a manner fully compatible with other important European centers of learning. The original administrative approach, together with the local narrow redefinition of the concept of area studies, reveals the pitfalls of borrowing an administrative classification that lacks a complex investigation of local traditions and a deeper understanding of the meaning behind the imported terminology.

The emergence and flourishing of American area studies after World War II was made possible by the initiative of policymakers and administrators, generous support from funding institutions, and also the initiative of a group of dedicated scholars with experience in social science research in linguistically and culturally diverse areas. As a result, new institutional frameworks and associated disciplines have expanded the research space and, in synergy with innovative research by individual scholars, have led to breaking down restrictive categories and disciplinary barriers. This enabled opening new paths to knowledge about the non-Western world.

In contrast, the recent experience from Charles University raises concerns about possible administrative interventions that, instead of opening new spaces, build artificial barriers, which may in the long term hinder the production of new types of knowledge. Scholars themselves are to blame as well, as they did not take a proactive approach to discussing development strategies in their respective fields of study. To be sure, Sinology and other similar area-oriented disciplines will continue to evolve spontaneously at Charles University, regardless of the barriers created by the understandable yet misleading desire for a simple classification for administrative purposes. However, the terminological confusion persists, and if the old Chinese wisdom saying "as regards the names in the world, at first, they are established as empty; but once they have become habitual, they cannot be changed,"[24] holds true, then spontaneous development along the lines which bring humanities and social sciences into fruitful dialogue cannot be taken for granted forever.

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[24] Ma Chengyuan (ed.), *Heng Xian*, in *Shanghai Bowuguan cang Zhanguo Chu zhushu VII* (Shanghai: Shanghai guji chubanshe, 2008), strips 9–10, transl. by Kateřina Gajdošová.

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