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**The status of academic freedom and institutional autonomy worldwide and its
protection at institutional and national level**

**Background paper for discussion at the 11th Session of the CEART
(Geneva, 8–12 October 2012)**

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The status of academic freedom and institutional autonomy worldwide and its protection at institutional and national level, by Lucio Sia.

This paper served as a background study for the 11th session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), held in Geneva 8-12 October 2012.

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Lucio Sia, UNESCO

INTRODUCTION

1. The 1997 Recommendation defines academic freedom as “the right, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies. All higher-education teaching personnel should have the right to fulfil their functions without discrimination of any kind and without fear of repression by the state or any other source.”
2. Furthermore, the 1997 Recommendation states that: “Autonomy is the institutional form of academic freedom and a necessary precondition to guarantee the proper fulfilment of the functions entrusted to higher-education teaching personnel and institutions... Member States are under an obligation to protect higher education institutions from threats to their autonomy coming from any source”.
3. This study on academic freedom sought to get first-hand perspectives on the state of academic freedom and its protection at institutional and national levels, examining what policies and mechanisms are put in place to protect this freedom, how academic freedom is threatened or curtailed, and finally what recourse may be available to the members of the academic community to complain and seek redress concerning such violations. Information was collected through a questionnaire developed by UNESCO and the International Association of Universitiesⁱ and sent to two different groups: on the one hand to higher education institutions and on the other, UNESCO National Commissions and Permanent Delegations. These questionnaires used both multiple-choice and open-ended questions to elicit information about the policies, measures and actions in existence. The study draws its inspiration from the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997). This fulfils the reporting requirement laid out in Article 75 of the Recommendation.ⁱⁱ
4. Many abuses of academic freedom go unreported or take on forms that may not be covered in the questionnaires used. The July 2011 issue of *University Values*ⁱⁱⁱ includes a report on a project undertaken by the Scholars at Risk Academic Freedom Advocacy Team (AFAT) which identified the following types of academic freedom violations as becoming common and impacting on thousands of scholars:
 - Abusive Defamation Actions: action taken for so-called "reputational harms" are used to curtail or punish speech, including academic speech. Fines or imprisonment of scholars for alleged harm to reputation, or the reputation of a country, resulting from academic publications, talks or other academic activities.
 - Retaliatory Discharge of Academic Personnel: as penalty for expressing academic opinions or for other professional activity. Scholars suffer discharge, demotion, loss of promotion or other penalties for their work or for exercising their rights. These penalties

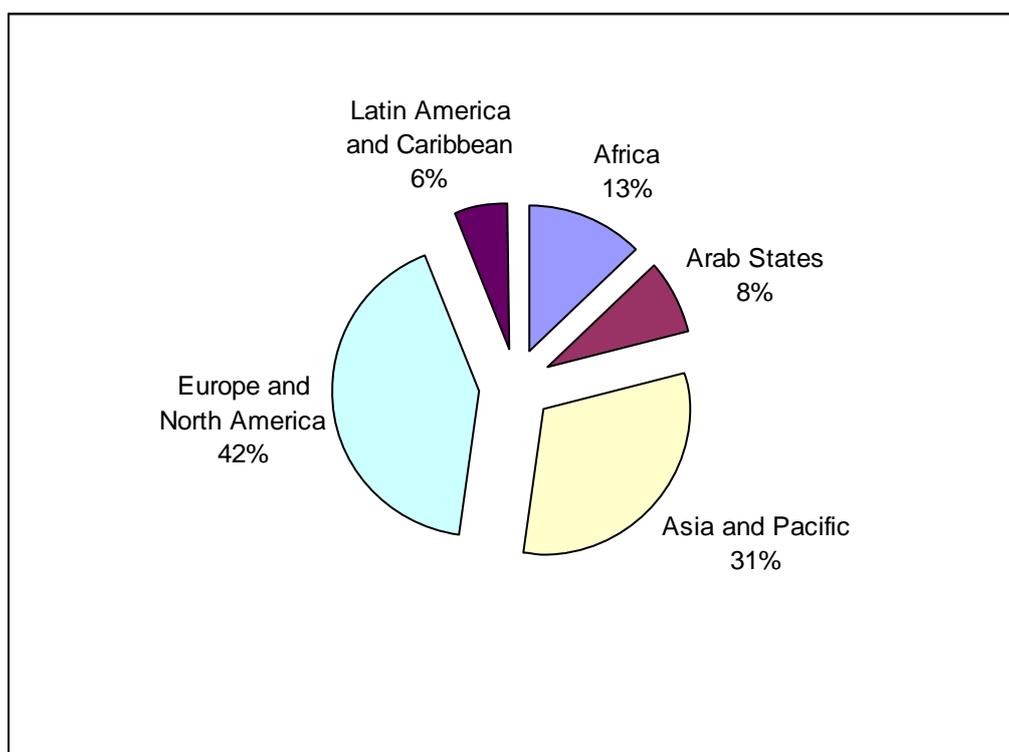
may be imposed by state authorities, higher education institutions, or sometimes other academics in positions of authority.

-- **Wrongful Detention and False Prosecution:** Some of the gravest threats to scholars and Academic freedom involve the arrest, interrogation, detention and/or prosecution of scholars on false charges in retaliation for expressing academic opinions or other professional activity.

-- **Restrictions on Freedom of Movement:** The ability to travel for the purpose of meeting and exchanging information with professional colleagues is one of the central elements of academic life. Restrictions on academic travel can seriously impede the research, education and community functions of higher education, and may also be a major impediment on a scholar's individual freedom. This is especially true when the restrictions are imposed to obstruct or retaliate against expression of specific content or for specific activities^{iv}.

Responses from Higher Education Institutions

5. The questionnaires sent to 623 higher education institutions garnered 117 responses spread over 57 countries. The regional breakdown is represented in the following chart.



6. The data from this survey provided interesting results, among them concerning:

Policies and protection:

- 68% of higher education institutions specifically mention academic freedom in their governing statutes.
- 60% have a policy/process in place which protects academic freedom.
- 29% have not updated or revisited these policies in the recent 5 years.
- 52% of respondents were aware of the 1997 Recommendation.

- 30% knew of a national/state authority charged with monitoring academic freedom .
 - 34% did not know of any.
 - 36% stated that no such body existed.
- 53% adhere to government guidelines when developing programs/courses.

Agreements and grievance mechanisms:

- 39% said Academic freedom was protected in collective bargaining agreements.
- 50% have a grievance committee to handle violations of academic freedom.
- 50% of these have been called on to investigate violations within the last 3 years.

Respondents indicate a large measure of uncertain knowledge about matters related to the mechanisms in place to protect academic freedom. Between a quarter and a third of the respondents indicate not being sure of the institutional reality in this policy area. Although academic freedom is a critical concept for higher education institutions and academics, it has not been a burning issue in recent years for many of the respondents.

Hiring practices:

- 52% indicate that academic freedom is articulated in employment contracts.
- 58% indicate that rights and responsibilities of academic freedom are stated in faculty handbook.
- 66% of higher education institutions report that the majority of academic staff are public/state employees.

‘Interference’ with academic freedom

This can take on various shapes, including, for example some external authority (state, religious group, foundation, etc) dictating what is taught to students. At the same time, for reasons of quality assurance, licensing etc., measures are taken to regulate aspects of higher education.

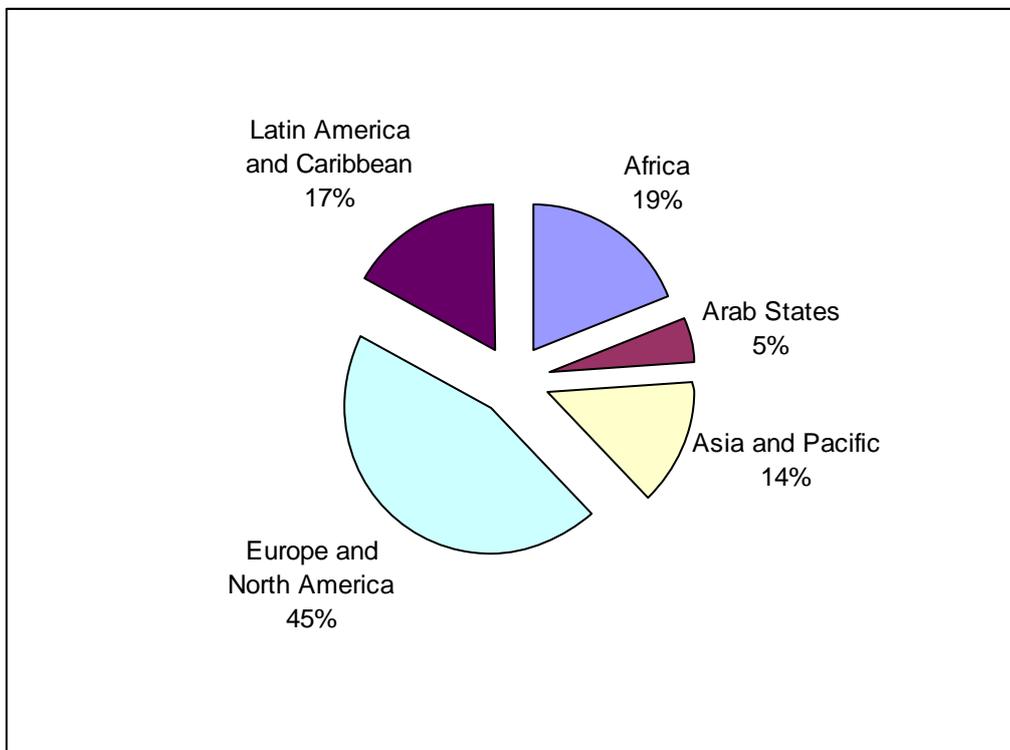
- 53% report that they must follow government guidelines when developing programmes or courses.
- 17% were unsure whether or not there were such guidelines.

7. With more than half of the institutions surveyed claiming to be familiar with the Recommendation (52%), UNESCO can be satisfied with this result. It shows that communications on the part of UNESCO and national Ministries, as well as NGOs such as IAU and Education International, for example, has been quite successful. At the same time, given that the Recommendation targets higher education personnel, clearly there is scope to make the Recommendations even more known and to ensure that the other half of the institutions learn about this document and address its contents.

Responses from National Commissions and Permanent Delegations of UNESCO Member States

8. A separate set of questions for Member States was developed to gather information about how, at the national level, academic freedom was protected. This national level picture is as important as understanding the institutional reality and perspective. Each delegation of a UNESCO Member State was sent a letter inviting them to either respond to the questions directly or to forward these questions to the most appropriate Ministry or body apt to provide the responses in their country.^v Moreover, in order to maximize the information gathered at the national level, each UNESCO National Commission was invited to take part in the survey, using the same questions.

9. Replies were received from 43 Member States. Similar in trend to responses from higher education institutions, the largest number of replies received came from the European and North American region. The smallest number of replies came from the Arab States region. The responses are broken down by region in the following graph.



10. To gain an understanding of how academic freedom is protected at the national level, the study asked respondents to detail if the higher education law in their country explicitly stipulated how academic freedom should be protected. 81% of the responding Member States indicate that the law did include such information.
11. Laws protecting rights such as academic freedom are essential yet insufficient without monitoring mechanisms to oversee whether or not the law is being applied fully. Member States were therefore questioned about the ways that academic freedom was monitored in their country, and what mechanisms were in place to respond to grievances related to academic freedom abuses, should these occur. 63% of the responding Member States indicate that there are mechanisms in place in their country to monitor academic freedom. It is interesting to note that although the question asked was slightly different, and that the overlap of countries is relatively small, the findings with regard to this question appear to be quite different whether it is the Member States or the higher education institutions that provide the answer. Only 30% of the 117 higher education institutions who replied to this question stated that there was a national or state authority in place that was charged with monitoring academic freedom. Yet almost twice as many of the Member States that replied to this question indicate that this is the case. One interpretation that could be made of these contradictory or at least different findings is that insufficient information is available within these countries. Another interpretation might be that such mechanisms may be in place but not called upon frequently or in any visible fashion. This area would be worth investigating further to learn in more detail about the legal protection for academic freedom that exists around the world.

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12. In terms of the mechanisms in place at the national level to respond to academic freedom violations or to the grievances lodged about such violations, 74% reported that there were such mechanisms in place. When asked to provide more details about these mechanisms, responses included both institutional and national level examples, such as the “Ministry of Science and Research”, “the Constitutional Court”. Others reported that “the universities themselves have committees to which teachers may complain about violations of academic freedom” or that “according to the Article.16 higher education institutions must guarantee exercise of the freedom of teaching personnel and students without any constriction.”
13. When questioned about the number of academic freedom violations that had been lodged in the past three years, by far the most frequent response given here was either “none” or “not known”, with several others stating that there was no requirement for universities to report academic freedom violations to the government.
14. In brief, from this Survey, several results became clear:
- 82% of delegations were aware of the 1997 Recommendation.
 - 81% stated that their countries had laws stipulating how academic freedom should be protected.
 - 63% reported the existence of national mechanism to monitor academic freedom.
 - 74% similarly reported the existence of a national mechanism to respond to grievances.
15. The general findings, based on the two sets of surveys – institutional and Member States - are encouraging in a general sense. However, it is not easy for higher education institution, or any Member State to voluntarily report that they violate or tolerate the violation of academic freedom. Yet everyday, newspapers carry articles or news items reporting that in some parts of the world, violations of academic freedom do take place – whether it is by banning books, by firing academics or by strictly controlling curriculum - at times violated by political regimes or religious groups.
16. Undertaking a study on the status of academic freedom around the world is a highly complex and potentially difficult effort. However, such a study is both a necessary process to learn more about what is going on in various nations. It is also a way of stimulating awareness about this important right as well as increasing knowledge about the 1997 UNESCO Recommendation, a unique instrument to promote academic freedom.

ⁱ The International Association of Universities was commissioned by UNESCO to conduct a survey on questions relevant to Academic freedom and Institutional Autonomy. A full copy of the report is available upon request.

ⁱⁱ Article 75 of the *1997 Recommendation Concerning the Status of Higher-Education Teaching Personnel* states that "The Director-General will prepare a comprehensive report on the world situation with regard to academic freedom and to respect for the human rights of higher-education teaching personnel on the basis of the information supplied by Member States and of any other information supported by reliable evidence which he/she may have gathered by such methods as he/she may deem appropriate."

ⁱⁱⁱ An electronic bulletin available online at www.scholarsatrisk.org and www.nearinternational.org

^{iv} Jesse Levine, *Toward a Unified Approach to Academic freedom Advocacy*, (www.academicfreedom.info/workshops/documents/UV_JULY_2011.pdf)

^v In 31 C/Resolution 13, the General Conference expressed its concern that only two Member States “have complied with Article 16, paragraph 2, of the Rules of Procedure concerning recommendations to Member States and international conventions, covered by the terms of Article IV paragraph 4 of the Constitution in respect of submitting initial special reports concerning the 1997 Recommendation concerning the Status of Higher-Education Teaching Personnel.”