

Academic Freedom in Sweden 2013



Academic Rights Watch

Annual Report

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Summary

Academic freedom is essential in a democratic society. Without academic freedom society stagnates. If the critical academic discourse is no longer permitted, due to restrictions on freedom of expression, we can no longer be sure that the research being done is of high quality. If politically appointed managers rather than academics themselves control the universities, there is an immediate risk that the research itself becomes politicized and that research quality is compromised. Unless universities are open and tolerant, there is little hope that the rest of society will be. For these and other reasons, any single violation of academic freedom is a serious failure and a disappointing defeat for the open society.

At the same time academic freedom in Sweden today faces substantial challenges. The biggest threat comes from New Public Management, an ideology according to which the public sector is to be governed as if it were a private business. In the private sector, freedom of speech is limited and line management rather than collegial governance dominates. The general distrust of academic personnel and other professionals that permeates NPM leads to a need to shift the control of research and teaching higher up the decision-making hierarchy. The ideology is in direct contradiction to the freedom, collegiality and openness without which academia suffocates. Despite this fact, the reality is that large parts of the Swedish higher education are now managed in accordance with NPM principles.

Since it was founded in late 2012, Academic Rights Watch has observed and documented no less than 25 different cases of academic rights violations at 15 Swedish universities. All too often, scholars face retaliation, to the point of being fired, because they have openly criticized the way the university is administered, even though in doing so they are exercising a right protected by the Swedish constitution and defended in European case law.

In addition, we have documented incidents ranging from academically unacceptable appointments and internal rules that inhibit freedom of expression, to events representing severe threats to institutional autonomy and transparency. Several cases provide evidence of massive violations of both academic standards and ideals, as established in international agreements, and fundamental Swedish and European law.

We have documented violation at the following universities: Blekinge Technical University, Chalmers University of Technology, Dalarna University, Gävle University, Halmstad University, Jönköping University, Luleå Technical University, Lund University, Malmö University, Mid Sweden University, Royal Institute of Technology, Stockholm University, Swedish University of Agriculture, University of Gothenburg and Uppsala University.

We regard the offenses to be both extensive and systematic, involving 40% of Swedish institutions of higher education. Although we have also identified positive events and developments, the general trend is that academic freedom is gradually being dismantled in Sweden.

Academic Rights Watch is an independent nonprofit alliance of scholars at several educational institutions whose purpose is to monitor academic freedom in Sweden. The main activity consists in documenting cases of rights abuses on the website www.academicrightswatch.se.

1. Introduction

Academic Rights Watch first year is over. During that year, we have documented in detail 25 cases involving certain or highly probable violations of academic freedom at 15 Swedish universities. Since academic freedom is a cornerstone of an open democratic society, without which it tends to stagnate, any single violation is one too much. The offenses against individual scholars that we document provide evidence for the existence of an extensive and, as we shall see, systematic threat to civil society. Given our limited resources, it is likely that we have only seen the tip of the iceberg. We have also documented measures taken on a larger scale to restrict freedom of expression, transparency and collegial governance for large groups of Swedish academics.

Some of the cases are of such general interest that we have chosen to follow their development in several posts on our site (www.academicrightswatch.se). We have also been able to document the events and trends of more positive character. However, they can be likened to irregular flashes of light in relatively compact academic darkness. Overall, we have posted 34 posts on the site. We would like to thank Professor Emeritus of Political Science, Lennart Lundquist, who contributed two in-depth analyzes and otherwise many insightful comments and feedback on our work.

The public documents which we have made available have been downloaded in thousands by our readers, who have thereby been able to consult the documentation of the cases we have published so as to form their own opinion regarding the merits of our analyzes. The objective documentation is an essential part of our work. In addition to the information found on the site, members of the Academic Rights Watch participated in the public debate on academic freedom by writing articles in the newspapers, through radio essays in Swedish radio and by participating in panel discussions.

Our starting point was that the threat to academic freedom comes from several directions. However, it was soon clear that the most serious danger stems from the forces that want to transform the university into a "business" delivering "products" to "customers." The introduction of New Public Management (NPM), i.e. the idea that the public sector should be governed as if it were a private business, is the source of much academic misery. In the private sector, where NPM supporters draw their main inspiration, freedom of speech is limited and line control occurs more frequently than collegial types of leadership. The distrust of professions that permeates NPM ideology also poses a threat to collegial governance. We have over the past year been strengthened in our understanding of the underlying causal mechanisms. Most violations that we have documented can be seen as consequences of the NPM ideology and the manner in which it has been implemented within Swedish higher education.

Although documenting academic violations is at the forefront of our work, this has not, as mentioned, prevented us from highlighting some more uplifting events. Since we started we have reported on the following:

- A motion from representatives of the Christian Democrats on the introduction of an independent constitutional court of the German kind. The proposal would counteract the political dependence that characterizes the Swedish legal system, where for example a government-appointed Chancellor of Justice oversees the country's highest courts.

- The Chancellor of Justice decided, in response to a report from Academic Rights Watch, to issue a clarification of the requirements that a communication policy in the public sector must satisfy. Such a policy must specify that the rules apply only to communications made on behalf of the public sector authority in question.

- A decision of the Administrative Court of Appeal in Gothenburg gave an employee at Lund University right to gain access to the management's internal email communication. (Unfortunately, the Administrative Court of Appeal in Stockholm later made the opposite assessment in a case dealing with internal email at the Royal Institute of Technology in Stockholm, a decision that was later confirmed by the Supreme Administrative Court. More on that below.)

- A professor emeritus who was forced to leave Lund University after criticizing a decision by the leadership to lay off several of his colleagues won a partial victory when the university agreed, in a judicial settlement, to compensate him for the doctoral students he had de facto supervised since his retirement.

- A petition against a government proposal to introduce university foundations was a success. We warned in a posting of the effects of such a reform for collegial decision-making. After 36 academics published an article in *Dagens Nyheter*, a major newspaper, protesting against the reform, more than 1,000 researchers and teachers from several Swedish universities signed the petition. 2013 can rightly be called a year of academic awakening in Sweden.

Another development that gives hope is that New Public Management during 2013 was rightly made responsible in Swedish media for a series of failures in education, health and policing. (Here, one could add the judicial system to the list.) The pressure became so great that the Social Democrats' leader Stefan Löfven was forced, in the fall, to renounce NPM in an article in *Dagens Nyheter*. Previously, only the leftist party had clearly distanced itself from the ideology. Crucial was Maciej Zaremba's article, also in *Dagens Nyheter*, about the effects in health care. Zaremba, one of Sweden's most influential opinion leaders, in a later article examined a case of dismantled collegial decision making at Karlstad University, which led to an academically unjustified honorary doctorate. From having been unheard of, NPM became a phenomenon that attracted increasing attention in the daily media, usually in a negative context. The possibilities for criticizing the effects of NPM for higher education thereby improved dramatically during the year.

Our independent critical activity has involved repeated questioning of the judicial handling of cases involving academic freedom. This has been done on the basis of UNESCO's recommendations for higher education, which is our main normative compass. Criticism of the judiciary was long taboo in Sweden, which was dominated by a kind of judicial fundamentalism, an absolute faith in the infallibility of the judicial system. One consequence of the legal scandal that shook Sweden in 2013, the so-called Quick trials, was that it became possible to question legal decisions and parts of the legal system without being automatically regarded as suspect or incompetent. This has probably helped to make our efforts to defend academic freedom, even against the judiciary, more legitimate in the eyes of the public.

2. Documented violations of academic freedom

Since its inception in November 2012, we have noticed and documented 25 cases involving violations of academic freedom with certainty or high probability:

- Violation of institutional autonomy and procedural errors when the Stendahl professorship was appointed at Lund University
- Violations of freedom of expression at Skåne University Hospital, closely associated with Lund University's faculty of medicine
- Infringement of the principle of collegial governance and procedural defects at an election of Faculty Deans at Lund University
- Violations of scholars' civil rights in a memo issued at Lund University
- Procedural irregularities in the appointment of academic staff at Lund University
- Violations of scholars' freedom of speech in a communications policy at the University of Gävle
- Violations of freedom of speech at the University of Gävle in connection with the dismissal of a professor and several of his colleagues after they had been openly critical of the university management
- Probable violation of freedom of expression at University of Dalarna when the same professor was denied a new professorship despite being ranked by independent referees as the foremost candidate
- Violations of scholars' freedom of expression in 9 of 12 internal communication policy documents from Swedish universities: Blekinge Technical University, Chalmers University of Technology, Halmstad University, Jönköping University, Lund University, Malmö University, Mid Sweden University, Swedish University of Agriculture and Uppsala University.
- Reduced and in some cases (Luelå Technical University) abolished collegial governance at several universities in connection with the Swedish autonomy reform, according to a study carried out at Uppsala University
- Violation of institutional autonomy when a minister dictated, in a decree, the conclusions researchers at the Swedish University of Agricultural Sciences should present as true at a conference abroad
- Breach of the principle of transparency ("honest and open accounting") when a professor at the Royal Institute of Technology was denied access to management's internal e-mail in a matter which concerned him
- Violations of freedom of speech and institutional autonomy when a professor at Lund University was called to a meeting with the Faculty Dean because of twitter messages that he sent as a private citizen
- Violations of freedom of expression and other civil rights when a professor emeritus was kicked out from Lund University after criticizing a management decision

- Probable violation of freedom of expression when four physicists were dismissed at the University of Gävle
- Violations of free speech and procedural errors when Stockholm University, in violation of established practice, refused to publish a student's Master thesis critical of the university management
- Academic unacceptable appointments of lectureships and lack of collegial governance at the University of Gothenburg

We have also analyzed the problems pertaining to an employee survey at Lund University, and told of a case where a union president demanded special restrictions on freedom of speech for students. The latter illustrates the fact that the academic union SULF has not always stood up for academic freedom in practical action.

In most cases above, the violations are in our judgment infringements in both the academic and the legal sense. In the latter cases, constitutional violations are by far the most frequent, in particular violations of freedom of expression (Chapter 2 of the Swedish Constitution), but violations of a number of other laws and regulations have also been documented. In several cases, the failures are massive, involving the breaching of a large number of laws and regulations. The total number of specific violations that have been documented could be as many as one hundred. There is a relatively clear systematic picture emerging as to which types of violation occur frequently, something which we draw upon in the more detailed exposition below.

2.1. Retaliation at criticism of the university's management

An important aspect of academic freedom, which is protected by the Constitution as well as defended in ECHR case law, is the right for a scholar to criticize the institution which he or she works without risk of reprisal. As ARW has observed, it is unfortunately common practice to sanction academics for criticisms they have raised against the management. In January, we reported on a survey conducted at Lund University in 2011, where 40% of employees reported that they were unsure whether they could speak their mind without risk of negative consequences. As our investigations into the state of Swedish universities reveal, there is every reason to be concerned.

The first case ARW published was about Lund University's treatment of an internationally recognized professor emeritus of Biology, who, after having expressed what must be seen as legitimate criticism of the Biological department's downsizing plans immediately lost his privileges as professor emeritus (office, email etc). We had occasion to return to the case more than once during 2013.

In a guest column in September, Lennart Lundqvist, a recognized expert on democracy, examined the way the case had been handled concluding that the professor emeritus had been denied a fair and public hearing in violation of the UN Declaration of Human Rights and the European Convention of Human Rights. As Lundqvist showed, none of the bodies involved – Lund University, the government agency Högskoleverket, the Administrative Court in Malmö, the Appeal and the Supreme Administrative Court – seriously examined the most relevant issue, that of freedom of expression. Rather, the case was sent between

different authorities in a catch 22. The professor emeritus was never heard, although he requested to attend the negotiations.

Later in September, we could report on positive developments in the case. As part of a settlement in Lund District Court, the professor emeritus was granted compensation for the doctoral students he supervised on a voluntary basis at Lund University after his official retirement.

In August, the professor emeritus filed a complaint to the Chancellor of Justice, who, however, dismissed the case in September. In our analysis of the Chancellor's decision, published the same month, we point to a number of serious errors in Chancellor Anna Skarhed's legal motivation. Skarhed claims for example that the professor emeritus had no statutory or otherwise regulated right to dispose of office accommodation at the faculty after his retirement, but that this was completely dependent on the university's good will and generosity. Therefore, the decision to deprive the professor of the resources did not interfere with his civil rights and any violation of these had thus not taken place. Had the professor been employed, depriving him of his office would indeed have been a disproportionate infringement of his rights, according to Skarhed. But the Chancellor chose to ignore the fact that the professor was appointed in the earlier days meaning that his rights to office and other facilities after retirement are regulated in a Royal Letter of 1920. As we argued, the more fundamental point may be that enjoying academic freedom does not presuppose a regulated right, but only that one contributes to research and teaching on a regular basis at an institute of higher learning.

The Chancellor's argumentation raises a number of questions about her independence, impartiality and general willingness to defend citizens' civil rights. In our analysis of the case we reach the conclusion that the Chancellor of Justice, who as the highest government attorney plays a double role in cases involving civil rights, is probably guilty of several constitutional violations. That this is damaging for her credibility need hardly be stressed. Probably it would be better to move some of the Chancellor's functions to an independent Constitutional Court. A similar proposal was made by three representatives of the Christian Democrats which we highlighted in March. As for the professor emeritus, he will appeal as a last resort to the European Court of Human Rights.

In April, we reported on a case involving several scholars in Literature at Gävle University hit by layoffs. The only plausible explanation for the university's actions was, on our analysis, that the dismissed staff had been openly critical to the university's decision to replace collegial rule by a line of command style management, in violation of core academic values. The criticism was manifested in published opinion pieces and in a public call for one university manager's demotion. The redundancy referred to by the management as a reason for the layoffs was, on closer inspection, seen to be the result of budgetary manipulation: revenues from the division of Literature were transferred to another division so that only spending remained, thus causing a deficit in the division's finances. This was possible after the collegial decision-making system had lost control over the budget.

One of the victims, an acclaimed professor, was denied a new professorship at Dalarna University despite the fact that he was ranked first among the candidates, something which we called attention to in April. After the expert report had been submitted, the Vice Chancellor decided to terminate the recruitment process prematurely referring to

deteriorating economic conditions. Since no financial records were made available that could be subject to public scrutiny, there are strong reasons to believe that the real reason behind the Vice Chancellor's decision was to prevent the appointment of an intellectual perceived to be too critical and politically incorrect.

In October, we had reason to return to the Gävle University, as four physicists were given notice of dismissal. The process bore many similarities to the firing of the scholars in Literature. Once again, creative accounting lurked behind the deficit in the division's finances that was stated as causing the layoffs. The affected scholars believe that the real reason is that the university wanted to get rid of critics within the organization. In addition, the physicists had gone public with plans for a teaching program for nuclear technicians, while the university has sustainable energy as part of its "brand". Be that as it may, the actions taken by the university are surely questionable from an academic perspective.

The cases of retaliation against internal criticism which we have presented so far have targeted academic staff. But as we could report in December universities do not shy away from sanctioning students as well. In 2006, a student at Stockholm University undertook to study, from an organizational-theory perspective, a failed reorganization process which choked the Stockholm School of Business and led to deep personal conflicts and dramatic deterioration of quality. The student concluded in his Master thesis that the Vice Chancellor of Stockholm University was ultimately responsible for the failures. As a consequence, Stockholm University refused to register the student's grade ("pass with distinction"). The grade was registered only after the student had filed a complaint to the Administrative Appeal Court in Stockholm. The teacher who supervised and examined the thesis also suffered retaliation, temporarily losing her examination right. At the end of 2013, the student's Master thesis was still missing in the public database on the department's website, in violation of the department's publication practice.

Institutions closely linked to the universities are also prone to sanctioning internal critics that choose to go public with their concerns. This became clear to a number of middle managers at the Skåne University Hospital (SUS), traditionally tied to Lund University and its Department of Medicine, when they were openly critical to the management of the hospital, as we could report at the beginning of the year. According to an article in *Sydsvenska Dagbladet* hospital authorities in response threatened their critics with dismissal or demotion. Swedish health care is perhaps the institution where New Public Management has been most consistently implemented, resulting in a radical line-of-command type governance and emphasizing the importance of loyalty to the employer. Criticism may only be raised internally, if at all.

This particular fact – that employees at SUS are in practice forbidden to speak to the media – leads us to a complex problem that many of our cases have centered on: that there is a widespread practice of universities issuing internal regulations that prescribe what academics may or may not say.

2.2. Internal regulations that infringe on academics' civil rights

The cases we have so far presented have in common that critics suffered reprisals because they have been openly critical, i.e. because they have exercised their right to freedom of speech. This right is acknowledged in the Swedish constitution (2 Ch. § 1) which states that

everyone is guaranteed “freedom of speech: freedom to communicate through speech, writing or image information and express thoughts, opinions or feelings”. At NPM-controlled universities, there is a clear tendency to impose different restrictions on freedom of expression. This is particularly serious in the university context, as the Swedish constitution, besides acknowledging the general right to freedom of speech for all citizens, specifically stresses the importance of this right in scientific matters (2. Ch. § 23).

In March, we began our review of the internal communication policies issued at Swedish universities. Our starting point was Gävle University whose communication policy contains a number of peculiar formulations (also from a linguistic point of view), including exhortations to “communicate internally before externally”. All employees are also expected to “stand behind and represent the decisions taken”. Rules such as these, the purpose of which is to protect the university's “brand”, may have serious consequences. Even if critics are not intimidated to complete silence, the rules in effect create uncertainty about what one can and cannot say as an employee of the university. Uncertainty can be just as effective as an outright ban. Bearing in mind that several scholars at Gävle University, who can be perceived to have violated the rules, have been laid off recently, this is a phenomenon that should be taken very seriously.

That same month, we informed about our decision to report the Vice Chancellor of Gävle University, May-Britt Johansson, to the Chancellor of Justice for denying academics at the university their freedom of speech and of inquiry. The Chancellor's decision came in May 2013, and even if she chose not to “criticize” the university explicitly, which in our opinion she should have, she highlighted several deficiencies in the communication policy. Thus the Chancellor objected to, for example, the rule that anyone who had been in contact with the media should contact their superiors. The Chancellor also issued a clarification to the effect that a university, and indeed any state authority, must make it clear that a policy only concerns communication that is made on behalf of the university (the authority). Gävle University, in deciding not to change the policy, has so far ignored the Chancellor's objections.

We went on, in May, to analyze the communication policies issued by 12 other Swedish universities from the same perspective. The result was disappointing. We found that in only three cases did the communication policies live up to the standards set by the Chancellor of Justice. What we are witnessing is a slow adjustment to the conditions prevailing in the private sector, which is perfectly in line with the ongoing process to introduce New Public Management in the higher education sector.

Sometimes, special rules regulating speech are introduced not for the whole university but for a particular individual or group of individuals. What we have in mind are various sorts of “formalities” known broadly under the name of “speech codes”. These are meant to regulate the manner in which employees can express themselves but in effect they often involve violations of freedom of expression. ARW has published two case studies that problematize this phenomenon.

One of our first cases concerned a complaint made to the Chancellor of Justice, Anna Skarhed, in connection with presumed violations of freedom of expression, of peaceful assembly and of information at Lund University. The background is that a professor of Philosophy criticized a colleague's research on several occasions, which led to the Dean of

Faculty of Humanities and Theology, in cooperation with the leadership of the Department of Philosophy, to issue a memorandum in five points stating rules of conduct for the professor's division. The rules state, for example, that "repeated and excessive criticism of individual colleagues" and "reprimands" are forbidden, that "only the head of department is entitled to call individual colleagues to meetings" and that "complaints must be reported to the department management". The memorandum adds that failure to comply with the rules can lead to dismissal. The case is of fundamental importance in the light of a constitutional clause which guarantees greatest possible freedom of expression in scientific affairs. It is unclear how to determine, in individual cases, what should be considered "excessive" criticism in a scientific context, and how to understand the expression "often repeated". Undoubtedly, the memorandum creates uncertainty concerning the exercise of free speech in science.

In July, we reported on the Chancellor's response, which agrees with the assessment of the university and shows no sensitivity to the fundamental issues at stake. According to the Chancellor, the rules do not restrict freedom of speech but they rather regulate *how* criticism can be made, i.e. they are only of a formal or procedural kind. The Chancellor's ruling is problematic because the provisions in the memorandum clearly allow for a broad interpretation according to which peer control of scientific quality is henceforth disallowed. The grave implications for research quality and the open academic discourse are easily imagined. Furthermore, law makers have anticipated the problems that speech codes represent: article 10 in the European Convention of Human Rights, which is part of the Swedish constitution, states that procedural requirements ("formalities") on speech, just like outright restrictions, must satisfy certain restrictive conditions in order to be permitted by law.

In a guest column, also published in July, Professor Lennart Lundqvist criticized the Chancellor's decision in strong terms for legitimizing local restrictions on freedom of expression in academia. Lundqvist objected to the vague wording in the university's memorandum, like the prohibition against "unwanted interference" and "repeated or excessive criticism", explaining the university's action as deriving from a desire to impose an authoritarian line management rule on the division and thereby silencing unwelcome criticism.

The case of the philosophers' speech regulations was thereby not concluded. In October, we reported that the Chancellor rejected a formal request to reconsider her earlier decision. The complaining professor had in fact found several obvious errors in the ruling, pointing out for example that a "reprimand" can hardly be understood otherwise than as a statement with a specific content. Hence, the memo's ban on reprimands falls directly under article 10 of the ECHR, which the Chancellor had denied. The request was rejected. Since the Chancellor did not motivate the rejection, the claimant requested that she disclose the reason behind her decision. In her response, Chancellor Anna Skarhed hides behind technicalities and refers back to the initial decision to reject the claim, maintaining that since her decision was made in the framework of the state's voluntary settlement of damage claims, she is under no obligation to reveal her reasons. The Chancellor's actions hardly inspire confidence.

We reported, in August, on another case of a similar nature. A renowned professor of Biology at Lund University expressed himself inappropriately in a twitter conversation during

his vacation. The university, however, treated the matter as a workplace environment issue, calling the professor to a meeting because his conduct was not considered to be consistent with the university's core values. University representatives argued that there is an obligation, especially for professors, to always express themselves with “dignity” because the public is not always clear whether university employees (mostly professors) speaks as private citizens or as representatives of the university. As in the case of the philosophers’ speech codes, the position of the university opens up for considerable arbitrariness. Our conclusion was – and here we followed the Chancellor of Justice and her academically impeccable assessment in the Gävle case – that it is only when employees speak on behalf of the university that the latter may have views on the manner and content of the communications. In all other cases, everyone has the right to act and express themselves in whatever manner they wish, provided it is in accordance with Swedish law.

This story took an interesting turn. In November we wrote that a private citizen reported Lund University to the Parliamentary Ombudsmen for violating the professor's civil rights. In a response to a request from the Ombudsmen, the university iterates its perception that the university has a responsibility to ensure a good working environment for its employees, and that it was forced to react to complaints from the general public which could be explained by the fact that the professor presented himself on Twitter as a professor at Lund University. But as ARW was able to document, the latter claim is false. It also became clear that the reactions from the “general public” should more accurately be described as a campaign coordinated by various right-wing groups displeased with the professor’s expressed left-wing views.

Both these categories of cases highlight efforts by Swedish universities to limit the freedom of speech of the academic scholars they employ, i.e. conscious attempts by state authorities to override the legal regulations that govern their activities. The fact that Sweden’s highest attorney, the Chancellor of Justice, contributes to this development is deeply problematic. We consider it established that the current Chancellor, Anna Skarhed, has a political agenda, the goal of which is to influence Swedish case law so as to introduce and consolidate New Public Management in the public sector. It is hard to believe that this could be happening without the current government’s silent approval.

We will now look at a phenomenon which can be seen as another part of the strategy for turning universities into line-of-command style organizations where critical intellectuals no longer have a place. In the best of all worlds (from the perspective of many university managers) there would be no critics left. Silencing critics who are still employed through repression and locally issued speech regulations has so far been a successful strategy, as there is a general lack of will on the part of the courts, ombudsmen and trade unions to do something about it. But it would be even better, obviously, if all academics were loyal and obedient from the start. The Swedish system of appointing academics in competition is, from an NPM perspective, a gamble. There is a serious risk that the applicants who are scientifically and pedagogically most skilful are also independent intellectuals. Universities in Sweden therefore have an extensive arsenal of strategies for how to avoid appointing academics in open competition.

2.3. Appointments in violation of academic principles

A fundamental principle of the Swedish public sector is that skill should be the main assessment criterion when appointing public officials. Academic positions should be appointed in competition following an open call and peer review of candidates. This ensures research and teaching quality, and employees need not bother with various extraneous loyalties. From an academic perspective, the many improprieties that occur in appointments are a major problem. Universities often exploit the possibility of internal recruitment, either by completely ignoring existing rules or by manipulating the rules in a way that is contrary to their spirit. We will in the following look at three different cases.

Following the launch of our website we reported on the appointment of an endowment professorship in Theology at Lund University, which, although it appears to be properly handled in a formal sense, in fact exhibits a series of embarrassing circumstances, leading to the conclusion that the appointment process by no means fulfills even the most basic requirements of objectivity. One expert could not read Swedish, the language of the main candidate mainly published in; one expert weighed in the candidates' religious affiliations in her assessment of their merits without the Appointment Board reacting; doubts were raised as to the responsible (and in the Swedish Church ordained) Faculty Dean's objectivity and impartiality, considering among other things his commissions of trust in the Swedish Church; crucial decisions were taken by a non-quorum Appointment Board; the Dean participated in the investigation of his own conflict of interest, etc. In many respects, the appointment of the professor is a defeat although it serves as a useful reminder of the importance of a minimum of integrity on the part of those in charge of an academic appointment process.

In January, we published a case study that illustrates a different approach: to simply disregard the rules that are in effect. Without anchoring his decision at any level of the department, a Dean requested means for appointing a Guest Lecturer at Lund University. The Dean then illegally appointed on his own initiative a Lecturer for a two-year period. Following an appeal, the university was forced to disqualify the appointment decision and post the position, which it did – in the middle of the summer vacation. The announcement was written so that hardly anyone other than the previously appointed candidate could be considered for the position, which was now redefined as a Research Fellowship. Furthermore, the person who was previously employed illegally, and is now legally employed, was recruited retrospectively, i.e. from a point when the position had not yet been announced. Here we are dealing with a pure offense, where the aim was clearly to recruit a particular person without interference, that is to say, collegial decision-making has been eliminated in favor of a Dean who, himself lacking competence in the relevance academic discipline, serves as a one-man Appointment Board, referee and decision-maker.

Our third example, which we published in December, relates to a planned appointment of a lecturer at the University of Gothenburg. Here, the hiring process was in impeccable accordance with the law but in obvious contradiction to its spirit. The Department of Philosophy, Linguistics and Theory of Science posted in spring 2012 a temporary position (with possibility of extension) in Theoretical Philosophy. The appointment has since been extended twice for six months. In a letter in November, the Department Dean, who lacks competence in the discipline, notifies the department that he intends to convert the temporary position into a permanent one, despite strong protests from the academic staff in theoretical philosophy. In this case, the Dean has the law on his side (after two years of

temporary employment a position must be converted to a tenured position according to the Swedish law of employment protection, LAS) but he has ignored the views of his more competent colleagues as well as the important academic principle that academic position should be appointed in open competition. The Dean has had every opportunity to post the position so as to ensure that the best candidate is selected, but apparently he did not wish to take that opportunity.

The problems with these appointments are many. First, they contribute to the erosion of scientific and pedagogical skills, in violation of the Swedish Higher Education Act which calls for high quality in institutions of higher education. Those who are recruited in this way are not necessarily the best. In some cases, they might happen to be so, but it is almost a tautology that they for the most part would not stand a chance in open competition (why else recruit them in this fashion?). Second, this practice contributes to a poor working environment. Academics, highly qualified ones in particular, never get a chance to apply for positions because they are never announced, leading to frustration and discord. Third, it is likely that the scholars who receive their positions on questionable grounds will never criticize the managers appointing them. This does not mean that they are particularly immoral – it is the managers who show character flaws – and asking someone to say no a tenured position is asking too much. It is rather in the nature of things that the propensity to criticize someone from whom you have received a life-long job as a gift is not unduly large. The predictable result is a compliant and subdued intellectual environment that ultimately poses a threat to academic freedom.

2.4. Weaknesses in institutional autonomy and public visibility

There are reasons to believe that the regrettable development that we are addressing here is related to the so-called Autonomy Reform introduced in January of 2011. A study from the Department of Political Science at Uppsala, which we published in May 2013, shows that the increased autonomy for higher learning institutions has meant reduced academic freedom for teachers and researchers. At several universities, their collective right to govern themselves has been replaced by line management. In some cases, such as Luleå Technical University, collegial governance has been abandoned altogether. Even the big universities, like the University of Gothenburg, have seen collegial decision-making increasingly dismantled. Uppsala and Stockholm are among the few institutions covered by the study that still retain a high level of academic governance.

In July, we could report about an incident at the Swedish Agricultural University where a minister in a government commission dictated in a formal letter to the university what conclusions researchers would present as true at a conference abroad. The commission was, in effect, to sell the Swedish administrative model for forest management as a model for global sustainable development. This view was considered by the researchers to be ill-founded and in its nature ethnocentric. There is according to them no international studies that would suggest that the Swedish model would be better than others in terms of sustainable development. We observed that the government's commission violates academic principles of institutional autonomy as well as fundamental legislation regulating freedom of research, and that it also runs counter to the requirements of scientific credibility of the Higher Education Act.

Even the case of the tweeting professor in Lund points to deficits in institutional autonomy. It is not acceptable that protests from what turned out to be a certain political grouping (on the far right) results in a professor being called by the university management to explain his conduct. A credible institution of higher learning must be able to withstand political campaigning no matter from which direction it is coming.

Also, the important Swedish principle of transparency in the public sector is under threat. In June, we reported on a ruling by the Administrative Court of Appeal in Gothenburg, which gave an academic at Lund University the right to view internal emails sent between managers where her name was mentioned, despite the fact that the university had refused to disclose the requested communications. In August, we could report on a ruling by the Administrative Court of Appeal in Stockholm which in an identical case reached a quite different conclusion. The background of this case is that a leading professor at the Royal Institute of Technology, who had fought a long battle with the university management for his criticism of the mathematical models behind the theory of global warming and his alternative views on mathematics teaching, suspected that the management contributed to the unexpected last-minute cancellation of his appearance in the TV program *Good Morning Sweden (Gomorrön Sweden)*. The logs which the professor was allowed to see reveal correspondence between managers, including the Vice Chancellor, with headings like “Good morning Sweden” and “Good morning Sweden IMPORTANT”. The university refused to disclose the emails and the Appeal Court in Stockholm gave the university right. The professor appealed the case to the Supreme Administrative Court and it is with astonishment that we report that the Supreme Court upheld the decision of the subordinate court.

Thus, a large part of the internal correspondence within the public sector – all internal emails that do not belong to an officially registered subject matter – may now be treated as classified. The decision probably concerns several million emails per year and perhaps as much as 50% of all emails sent internally within public authorities. Besides the fact that ARW and the complaining professor have called attention to the matter on our respective websites, the decision has been taken in the background and without any public debate in the usual media.

It is a reasonable conjecture that the introduction of university foundations would aggravate the situation further. In an analysis of the proposal to convert some universities to foundations which we published in August, we reached the conclusion that the crucial points are precisely how to manage the recruitment of academic staff and how university foundations should be governed in general. There is a justified concern that introducing university foundations means increased line control and reduced academic freedom for scholars. It is therefore encouraging to note that many share our reservations. A petition against the government's proposals, which we reported on in November 2013, was signed by over 1,000 Swedish academics.

3. Concluding remarks

Despite some bright spots, it is hard to be optimistic concerning the future of academic freedom in Sweden. Freedom of expression, its most important aspect, is directly threatened by retaliation and through the introduction of various communications regulations and locally formulated codes of conduct. Increased line control creates a greater

distance between the core academic activity and the managers that are set (rather than collegially elected) to oversee operations. Collegial leadership has been in many areas abolished. Internal recruitments and strategic use of the Law of Employment Security are common and lead to a dismantling of scientific and pedagogical expertise. The autonomy reform has led to greater freedom, but for directors and managers rather than for researchers and teachers. While there are many institutions that work very well, where academic positions are appointed in open competition and where the critical academic discourse leads to world class research, the overall picture gives every reason to be concerned.

Many of these threatened academic principles are, as we mentioned, protected in fundamental Swedish and European law. It is hardly acceptable that Swedish universities should constantly balance on the borderline of the constitution, all too often coming down on the wrong side. An institution of higher learning that deserves respect must not only meet constitutional requirements, but do so *by a wide margin*. But this piece of common sense is something that Swedish universities have long left behind.

The only persons that in our opinion can change this disturbing trend are the researchers and teachers who are prepared to stand up for academic freedom not only in theory but also in practice. 2013 was, as we wrote, of year of academic awakening, as many academics became aware of existent threats and, importantly, from where they come. Our hope is that 2014 will be the year when Swedish academics concretely take the matter in their own hands by thwarting any kind of restriction on freedom of speech and other academic rights. We should as academics stand together to promote an open and creative university where independent and critical intellectuals are seen as a resource and an asset for the assurance of quality and for the realization of the democratic function of higher education, not as a threat to universities' freely invented "brands".

Facts about Academic Rights Watch

Non-profit association

Founded in 2012

Politically and religiously independent

Main activity:

- Operates the website www.academicrightswatch.se

Founders:

- Professor Erik J. Olsson (Theoretical Philosophy, University of Lund)
- Associate Professor Magnus Zetterholm (New Testament Exegesis, University of Lund)

Representatives at other universities:

- Professor Guy Madison (Psychology, Umeå University)
- Professor and Vice Dean Sharon Rider (Theoretical Philosophy, University of Uppsala)
- Lecturer Jens Stilhoff Sørensen (Global Studies, University of Gothenburg)

Our convictions:

- Academic freedom is central to democracy
- Without academic freedom society tends to stagnate
- Without academic freedom, we can no longer rely on research
- If the university is intolerant this spirit will spread in society at large (e.g., via students)
- New Public Management ideology is incompatible with meaningful academic freedom

Our objectives:

- Monitor academic freedom in Sweden
- Document violations using public and other documents
- Attend to the fundamental rights of students, including doctoral students
- Inform about the meaning of academic freedom
- Inform about international agreements and legislation
- Help universities to better live up to basic academic principles and ideals
- Provide general advice on what to do if fundamental academic rights have been violated