

# The international law of academic freedom: Grounding a human right and responsibility to science

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## Abstract

Academic freedom is under-protected in international human rights law. In order to remedy the situation, this article proposes, first, to critically assess its existing international human rights law framework; second, to interpret the newly re-discovered human right to science so as to re-ground academic freedom primarily (albeit not exclusively) therein as the “freedom indispensable for scientific research” guaranteed by Article 15(3) of the International Covenant on Economic, Social and Cultural Rights; and, third, to draw various implications for academic freedom’s right-holders, duty-bearers and scope. It argues that some of the reasons for academic freedom’s neglect in international human rights law lie in what makes the human interest and responsibility in science unique, and hence in the specificities academic freedom shares with the human right to science more generally: first, that right’s personal and institutional dimensions and, when personal, its individual and collective nature; second, its amounting to both a freedom and a responsibility; and, third, its equal albeit differentiated application to scientists and non-scientists.

## Keywords

Academic freedom, right to science, freedom of expression, right to education

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“[...] Academic freedom is a *human right*, not a *professional freedom* limited to education personnel or traditional institutions such as universities. [...]”

Academic freedom per se is *not mentioned in international human rights treaties*. However, it is legally grounded in a number of provisions, *particularly those relating to the rights to education, to take part in cultural life, to enjoy the benefits of scientific progress and its applications and to the freedom indispensable for scientific research and creative activity* (International Covenant on Economic, Social and Cultural Rights, arts. 13 and 15 and Convention on the Rights of the Child, arts. 28 and 29), as well as the *right to freedom of opinion and expression*, including the right to seek, receive and impart information and ideas of all kinds (International Covenant on Civil and Political Rights, art. 19). [...]

The Special Rapporteur notes an emerging call for the consideration of academic freedom as a *self-standing human right*. [...]”<sup>1</sup>

## I. INTRODUCTION

Not a day goes by without a new threat or even restriction to academic freedom being reported in the world.<sup>2</sup> A problem that used to be considered as circumscribed to certain non-democratic or otherwise ‘illiberal’ States is now rightly perceived as trans-regional and universal.<sup>3</sup> As a result, academic freedom is finally recognised for what this essay will argue it always was, that is, a common interest of humanity.

Curiously, however, the legal framework in which most seek additional protection of academic freedom to this date has remained largely domestic. This may be explained in at least three ways.

First, academic freedom has long been neglected by lawyers, both domestic and international alike.<sup>4</sup> This may be because scientific research and teaching are usually, albeit wrongly, not considered a matter of public law.<sup>5</sup> To that extent, they are not deemed as matters for the State to

1 Human Rights Council (HRC), Academic freedom, Report of the Special Rapporteur on the right to education, Farida Shaheed, [2024] UN Doc A/HRC/56/58 (Report of the Special Rapporteur on the right to education, Farida Shaheed 2024), paras 6, 10-11 and 23 (emphasis added).

2 For a coverage of those domestic and foreign, public and private, religious and non-religious, military and non-military, and university-external and internal threats and restrictions to academic freedom, and for numerous examples, see: Scholars at Risk (SAR), *Free to Think: Report of the Scholars at Risk Academic Freedom Monitoring Project* (2024), available at <https://www.scholarsatrisk.org/free-to-think-reports/> (accessed 25 March 2026).

3 For the most recent figures of this post-2015 universal decrease in the protection of academic freedom after an initial universal increase between 1980 and 1990 and a stabilisation between 1990 and 2015, see: Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU) and V-Dem Institute, *Academic Freedom Index* (Update 2025), available at <https://academic-freedom-index.net> (accessed 25 March 2026). See also the figures in: Tanja A Börzel and Janika Spannagel, ‘The Globalization of Academic Freedom’ (2025) 14 *Global Constitutionalism* 73.

4 For publications on academic freedom in philosophy (both political and of science), see, for example: Torsten Wilholt, ‘Scientific Freedom: Its Grounds and their Limitations’ (2010) 41 *Studies in History and Philosophy of Science* 174; Akeel Bilgrami and Jonathan R Cole (eds), *Who’s Afraid of Academic Freedom?* (Columbia University Press 2015); Jennifer Lackey (ed), *Academic Freedom* (Oxford University Press 2018); Michele Moody-Adams, ‘What’s So Special about Academic Freedom?’ in Akeel Bilgrami and Jonathan R Cole (eds), *Who’s Afraid of Academic Freedom?* (Columbia University Press 2015); Pascal Engel, ‘A Knowledge-Based Concept of Academic Freedom’ in Ivo De Gennaro, Hannes Hofmeister and Ralf Lüfter (eds), *Academic Freedom in the European Context* (Palgrave Macmillan 2022); Robert Mark Simpson, ‘The Relation between Academic Freedom and Free Speech’ (2020) 130 *Ethics* 287.

5 Note that the terms ‘academic’/‘academics’ and ‘scientific’/‘scientists’ are used interchangeably for now. The essay will revert to their delineation in section 2.

guarantee and protect, but as being governed by scientific professional ethics at the most. In short, the default view often misses the complementarity between the State's public law of science and scientific institutions' autonomy or self-regulation, together with their need for articulation.<sup>6</sup>

Second, even after it started to be addressed as a legal issue, academic freedom has often been approached as a professional freedom only, and not as a human right.<sup>7</sup> This may be explained by reference to some of the traits of academic freedom in practice: first, the collective and especially institutional dimensions of academic freedom such as, for instance, university autonomy; second, the personal and institutional responsibilities that often come with academic freedom, such as institutional neutrality; and, third, the epistemic capacities and related professional qualifications that it is sometimes premised on, thereby excluding most people from its ambit. These three features are often considered to be in tension with a standard conception of human rights. That erroneous conception considers human rights, first, as being necessarily personal, and not institutional and, even in the former case, as being individual, and not collective; second, as only giving rise to responsibilities of States, and not to responsibilities of other institutions or persons including the human right-holders themselves; and, third, as being necessarily inclusive of everyone and applicable equally and in the same way to all, as opposed to being differentiated in their personal scope and contextualised in their content.

Third, in the rare and, importantly, rather recent instances in which it is considered a legal human right, academic freedom has mostly been guaranteed as a domestic human right only.<sup>8</sup> In fact, this is only the case in 52% of the world's constitutions and in 101 out of 197 States.<sup>9</sup> In other jurisdictions, academic freedom is usually protected as a right derived from the combination of two or three other domestic human rights: freedom of expression, the right to education or, more rarely, freedom of scientific research. When it is also approached as an international human right, academic freedom is mostly guaranteed as a regional human right (albeit usually related again either to freedom of

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6 See, however: Parliamentary Assembly, Council of Europe, Academic freedom and university autonomy, [2006] Recommendation 1762 (2006) (Parliamentary Assembly, Recommendation 1762 (2006)), para 7; Report of the Special Rapporteur on the right to education, Farida Shaheed 2024, at para 15.

7 See, for example: Olivier Beaud, 'Academic Freedom in France: A Concept Neglected and Liberties under Threat' in Ivo De Gennaro, Hannes Hofmeister and Ralf Lüfter (eds), *Academic Freedom in the European Context* (Palgrave Macmillan 2022) (for the French context); Matthew W Finkin and Robert C Post, *For the Common Good. Principles of American Academic Freedom* (Yale University Press 2009) (for the US context). For a different opinion, however: Eva Cherniavsky, 'Against the Common Sense: Academic Freedom as a Collective Right' (2021) 12 AAUP Journal of Academic Freedom 1; Paul Ricœur, 'Préface' in Jacques H Drèze and Jean Debelle, *Conceptions de l'université* (Editions universitaires 1969) at 13.

8 For publications on academic freedom in comparative domestic law, see, for example: Eric Barendt, *Academic Freedom and the Law. A Comparative Study* (Bloomsbury Publishing 2010); Margrit Seckelmann, Lorenza Violini, Cristina Fraenkel-Haerberle and Giada Ragone (eds), *Academic Freedom Under Pressure? A Comparative Perspective* (Springer 2021); Ivo De Gennaro, Hannes Hofmeister and Ralf Lüfter (eds), *Academic Freedom in the European Context* (Palgrave Macmillan 2022); Frédéric Mégret and Nandini Ramanujam (eds), *Academic Freedom in a Plural World. Global Critical Perspectives* (CEU Press 2024).

9 On the very recent, albeit limited and fragmented, increase in the constitutional recognition of academic freedom domestically and the challenge it constitutes for diffusion theories in comparative constitutional law especially post-1945 and post-1990, see: Kriszta Kovács and Janika Spannagel, 'Academic Freedom: Global Variations in Norm Conceptualization, Diffusion and Contestation: an Introduction' (2025) 14 Global Constitutionalism 13; Janika Spannagel, 'The Constitutional Codification of Academic Freedom over Time and Space' (2025) 14 Global Constitutionalism 46.

expression or to freedom of scientific research),<sup>10</sup> and not as a universal human right.<sup>11</sup> Indeed, no universal human rights law instrument guarantees academic freedom as an explicit right in and of itself. This may be because academic institutions are considered as organised very differently from one State to the next, and because their autonomy has been regarded as incompatible with any form of legal guarantee, not to mention a universal one. This could echo the related (erroneous, albeit widespread) conception according to which the universality of human rights implies their uniform and top-down application as opposed to their contextualised and bottom-up consolidation.

The result is that a universal interest of humanity that is increasingly vulnerable to universal threats remains deprived of full protection by the regime of international law that could best protect such interests against such threats, namely international human rights law. In short, while being finally considered a universal interest of humanity in practice, academic freedom has not yet become a universal responsibility thereof in international law terms.<sup>12</sup>

Luckily, things have started to change in the last fifteen years or so, thanks to the joint interpretative efforts by various United Nations (UN) bodies such as the Special Rapporteur on education's groundbreaking 2024 report on academic freedom quoted earlier.<sup>13</sup> Regrettably, however, the proposed interpretations of academic freedom are still weakened by their being channelled over three different human rights and, most of the time, their separate treatment through the lenses of those three rights' respective instruments, committees or mandates: the right to education,<sup>14</sup> the

10 For publications on academic freedom in regional human rights law, and especially in Europe and on Article 13 European Charter of Fundamental Rights (Charter of Fundamental Rights of the European Union (EUFRC) [2016] OJ C202/389) and Article 10 European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) [1950] ETS No 005), see, for example: Hannes Hofmeister, 'The Protection of Scientific Freedom under the European Charter of Fundamental Rights: A Critical Analysis' in Ivo De Gennaro, Hannes Hofmeister and Ralf Lüfter (eds), *Academic Freedom in the European Context* (Palgrave Macmillan 2022); Vasiliki Kosta and Olga Ceran, *Academic Freedom Monitor 2024: Overview of de jure academic freedom protection* (PE 762.887, European Parliamentary Research Service 2025), available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2025/762887/EPRS\\_STU\(2025\)762887\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2025/762887/EPRS_STU(2025)762887_EN.pdf) (accessed 25 March 2026); Kriszta Kovács, 'Academic Freedom in Europe: Limitations and Judicial Remedies' (2025) 14 *Global Constitutionalism* 138. See also: European Court of Human Rights (ECtHR), *Mustafa Erdoğan and others v Turkey* App Nos 346/04 and 39779/04 (2014) ECLI:CE:ECHR:2014:0527JUD0000034604, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-144129%22%5D%7D> (accessed 25 March 2026); Court of Justice of the European Union (CJEU), Case C-66/18 *Commission v Hungary* [2020] ECLI:EU:C:2020:792, available at <https://curia.europa.eu/juris/liste.jsf?num=C-66/18> (accessed 25 March 2026). On other regions, and especially the Inter-American and African human rights instruments and existing/forthcoming declarations on academic freedom, see, for example: SAR, *Regional Coalitions for Academic Freedom* (2025), available at <https://www.scholarsatrisk.org/regional-coalitions-for-academic-freedom/> (accessed 25 March 2026). See also: Interamerican Court of Human Rights, Advisory Opinion AO-32/25 [2025] Series A No 32, at paras 471-489, available at <https://jurisprudencia.corteidh.or.cr/en/vid/1084981967> (accessed 25 March 2026).

11 The relatively scarce publications on academic freedom in international human rights law to date include: Klaus D Beiter, Terrence Karran and Kwadwo Appiagyei-Atua, 'Yearning to Belong: Finding a "Home" for the Right to Academic Freedom in the UN Human Rights Covenants' (2016) 11 *Intercultural Human Rights Law Review* 107; Sebastian Porsdam Mann *et al*, *Scientific Freedom. The Heart of the Right to Science* (Rowman & Littlefield Publishers 2024), at 3-9, 13-17 and 73; Sejal Parmar, 'Beyond the Periphery? Academic Freedom as a Matter of Human Rights' in Frédéric Mégret and Nandini Ramanujam (eds), *Academic Freedom in a Plural World. Global Critical Perspectives* (CEU Press 2024); Katrin Kinzelbach, 'The Origin and Contested Meaning of Freedom in the Human Right to Science' (2025) 14 *Global Constitutionalism* 26.

12 For a similar diagnosis, albeit focusing on the lack of a world-wide legal conception of academic freedom, see: Report of the Special Rapporteur on the right to education, Farida Shaheed 2024, at paras 15-16.

13 Report of the Special Rapporteur on the right to education, Farida Shaheed 2024.

14 Article 13 International Covenant on Economic, Social and Cultural Rights [1966] 993 UNTS 3 (ICESCR).

freedom of opinion and expression,<sup>15</sup> and, more rarely so far, the freedom of scientific research.<sup>16</sup>

As a consequence - and this is the central argument of the present essay - UN bodies have not yet been able to conceptualise the international guarantee of academic freedom as a self-standing human right by grounding it in the international human right to which it should be primarily (though not exclusively) linked: that is, the right to participate in both natural and human sciences, as protected by Article 15(1)(b) and (3) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), commonly referred to as the 'human right to science.'<sup>17</sup> Of course, that right itself has also long been neglected in practice, and arguably even intentionally sidelined by States until recently. Crucially, however, as the essay will argue, the reasons for that sidelining are partly the same as those explaining why academic freedom has not been considered an international human right until recently: first, the human right to science's personal and institutional dimensions and, when personal, its individual and collective nature; second, its being practised as both a freedom and a responsibility; and, third, its equal albeit differentiated application to scientists and non-scientists depending on their epistemic qualifications.

In order to understand why academic freedom remains under-protected in international human rights law and how to remedy the situation, this essay proposes first to critically assess its existing international human rights law framework and, second, to interpret the newly re-discovered human right to science so as to re-ground the right to academic freedom primarily (albeit not exclusively) therein as the 'freedom indispensable for scientific research' guaranteed by Article 15(3) ICESCR. Its argument is three-pronged: first, it proposes a critical overview of the fragmented international human rights law guarantees of academic freedom; second, it unpacks the promises of the current re-discovery of the human right to science and that right's main tenets; and, third, it re-grounds academic freedom primarily (albeit not exclusively) in the human right to science and draws various implications for its right-holders, duty-bearers and scope.

Although its precise scope and content will be further specified in the course of this essay, it is important to define academic freedom minimally. The proposed conception understands academic freedom as 'freedom indispensable' for science under the human right to science. On this view, academic freedom consists in the articulation of three interrelated freedoms: the freedom of scientific research itself and, more broadly, two further freedoms that are indispensable to it, namely, the freedom of scientific teaching and learning (or education) and the freedom of scientific communication (or expression). This conception mirrors the most common understanding of academic freedom today, endorsed in the Special Rapporteur on education's 2024 report and the one

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15 Article 19 International Covenant on Civil and Political Rights [1966] 999 UNTS 171 (ICCPR).

16 Article 15(3) ICESCR.

17 For some of my earlier publications on the human right to science, see: Samantha Besson, 'International Cooperation under the Human Right to Science: Grounds, Subjects, Objects and Contents' in Samantha Besson and Katja Achermann (eds), *International Cooperation under the Human Right to Science* (Edward Elgar 2026); Samantha Besson, 'The Institutional Guarantee of the Human Right to Participate in Science' (2025) 25 *Human Rights Law Review* 1; Samantha Besson, 'The "Human Right to Science" *qua* Right to Participate in Science and Enjoy its Benefits. The Participatory Good of Science and its Human Rights Dimensions' (2024) 28 *International Journal of Human Rights* 497; Samantha Besson, 'Anticipation under the Human Right to Participate in Science: Concepts, Stakes and Specificities' (2024) 28 *International Journal of Human Rights* 293; Samantha Besson, 'Science without Borders and the Boundaries of Human Rights – Who Owes the Human Right to Science?' (2015) 4 *European Journal of Human Rights* 462; Samantha Besson, 'Introduction/Mapping the Issues', Special issue on the Human Right to Science (2015) 4 *European Journal of Human Rights* 403.

consolidated as the first principle of the UN Human Rights Council (HRC)'s inclusive Working Group on Academic Freedom's 2024 *Principles for implementing the right to academic freedom*:

Academic freedom is the human right to acquire, develop, transmit, apply, and engage with a diversity of knowledge and ideas through research, teaching, learning, and discourse.

(a) Protection for academic freedom must include the freedom to access, disseminate and produce information; think; and develop, express, apply and engage with a diversity of knowledge within or related to one's expertise or field of study, regardless of whether it takes place inside the academic community ("intramural expression") or outside the academic community, including with the public ("extramural expression").

(b) Protection for academic freedom must also include inquiry, expression or other activity or conduct related to the conditions, actions, or policies of academic, research, or teaching institutions, regardless of whether it takes place within or outside the academic, research, or teaching sector, including with members of the public.<sup>18</sup>

The essay's aim is to support current efforts at the UN to strengthen the protection of academic freedom in international human rights law by revealing some of their blind spots and, hopefully, steering the proposed interpretations in a new, albeit complementary, direction in the future. Nothing in the proposed argument should therefore be read to imply that specific dimensions of academic freedom, such as the freedom of academic teaching and learning or the freedom of academic communication, cannot also be grounded, in a complementary way, in other human rights such as the human right to education or the freedom of expression. The essay's only claim is that academic freedom as a whole, including those two dimensions, should also be grounded, and actually primarily so, in the human right to science.

## 2. THE GUARANTEES OF ACADEMIC FREEDOM IN INTERNATIONAL HUMAN RIGHTS LAW

As mentioned earlier, no universal instrument in the post-1945 *corpus* of international human rights law protects academic freedom as an explicit right guaranteed in and of itself.

As is the case in domestic constitutional law, however, the right to academic freedom has been derived as a combination of three distinct human rights in international law. Those rights are considered indeed to protect the three dimensions usually identified in academic freedom: the right to education (Article 13 ICESCR) for the academic freedom to teach & learn; the freedom of opinion

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18 HRC, Working group on academic freedom, Principles for implementing the right to academic freedom, [2024] UN Doc A/HRC/56/CRP.2 (Principles for implementing the right to academic freedom), Principle 1. See also: Report of the Special Rapporteur on the right to education, Farida Shaheed 2024, at para 23: "Academic freedom includes four interdependent pillars: (a) the right to teach; (b) the right to engage in discussions and debates with persons and groups inside (including in classrooms) and outside the academic community; (c) the right to conduct research; and (d) the right to disseminate opinions and results of research both intramurally and extramurally. The Special Rapporteur supports the right of researchers, educators and students to academic freedom within or related to their fields of expertise or of study, including special duties to seek truth and impart information according to ethical and professional standards and to respond to contemporary problems and needs of all members of society."

and expression (Article 19 International Covenant on Civil and Political Rights [ICCPR]) for the academic freedom to communicate; and the freedom of scientific research (Article 15(3) ICESCR) for the academic freedom to research. This derivation of academic freedom as a human right from those three rights has been confirmed by the interpretations developed by various UN bodies, and especially by the United Nations Educational, Scientific and Cultural Organisation (UNESCO),<sup>19</sup> the Committee on Economic, Social and Cultural Rights (CESCR),<sup>20</sup> several UN Special Rapporteurs,<sup>21</sup> and the UN HRC.<sup>22</sup>

Regrettably, however, those interpretations contain important gaps. First of all, until 2024 and the publication of the Special Rapporteur on the right to education's report on academic freedom, the relevant elaborations of its content had been quite succinct. Before then, indeed, no general comment by either of the two committees had been dedicated entirely to academic freedom. Moreover, the CESCR's general comments on Articles 13 and 15(1)(b) and (3) of the ICESCR pertain to the right to education and the right to science in general, and are hence very limited in their treatment of academic freedom.<sup>23</sup> Second, the newly proposed interpretations of academic freedom have been weakened, rather than reinforced, by their being channelled over three different human rights. Indeed, this has made their treatment specific to each right. Of course, this could be considered a strength. However, the treatment under every single right has remained oblivious of the other dimensions of academic freedom protected under the other rights and hence of the need to articulate those different rights. Moreover, and it is related, the proposed interpretations have been issued in a fragmented and silo-like institutional fashion: they have been developed separately through the lenses of their respective instruments, committees and mandates and hence without any coherence requirement.

Third, and more specifically, even if they are articulated to one another, the right to education and freedom of expression cannot be considered as full grounds of academic freedom, and not

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19 See: UNESCO, Recommendation concerning the Status of Higher-Education Teaching Personnel, [1997] (UNESCO Recommendation 1997).

20 See: CESCR, General Comment No 13 on the right to education (article 13 of the International Covenant on Economic, Social and Cultural Rights), [1999] UN Doc E/C.12/1999/10 (General Comment No 13), paras 38-40; CESCR, General Comment No 25 (2020) on science and economic, social and cultural rights (article 15(1)(b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights), [2020] UN Doc E/C.12/GC/25 (General Comment No 25), para 13.

21 See: UN General Assembly, Promotion and protection of the right to freedom of opinion and expression, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, [2020] UN Doc A/75/261 (Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye 2020), paras 5 ff and 54; Report of the Special Rapporteur on the right to education, Farida Shaheed 2024.

22 See: HRC, Permanent Mission of France to the United Nations in Geneva and other international organizations in Switzerland, Joint Declaration on Academic Freedom, Statement on behalf of a group of 74 countries on Academic Freedom, [2023], available at <https://onu-geneve.delegfrance.org/Joint-declaration-on-Academic-freedom> (accessed 25 March 2026).

23 This is also true, more generally, of the treatment of Article 15(3) ICESCR itself and of its vexed relationship to Article 15(1)(b). See, for example: UNESCO, Venice Statement on the Right to Enjoy the Benefits of Scientific Progress and its Applications, [2009] UNESDOC SHS/RSP/HRS-GED/2009/PI/H/1 (Venice Statement), para 12(d), at 16; HRC, The right to enjoy the benefits of scientific progress and its applications, Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, [2012] UN Doc A/HRC/20/26 (Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, 2012), paras 41-42; General Comment No 25, at paras 13 and 20; HRC, Right to participate in science, Report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki, [2024] UN Doc A/HRC/55/44 (Report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki 2024), paras 70-73.

even as primary grounds thereof. Of course, academic teaching and learning and academic communication are rightly considered as two important dimensions of academic freedom by those interpretations. To that extent, and as mentioned before, the right to education and freedom of expression are important rights in which to ground those two dimensions of academic freedom. However, they cannot exhaust its content as a self-standing human right, particularly with regard to its scientific dimension. Unlike the human right to science, neither the human right to education nor freedom of expression protects the primary human interest that can and should ground academic freedom, namely science understood as the acquisition and consolidation of knowledge. If academic expression or education are protected, it is to protect scientific knowledge and its acquisition.<sup>24</sup> Academics are not free to express themselves for the simple sake of expression, but in the pursuit of knowledge, and the education they provide should be protected because it trains the acquisition and consolidation of knowledge. True, free education and free expression are key to the effective protection of the scientific practice and, to that extent, those two rights are instrumental to the effective protection of both the educative and expressive dimensions of academic freedom. Importantly, however, it is that scientific practice itself that should be regarded as the primary object or ground of the right to academic freedom. And it is that object or ground, as we will see later, that also accounts in turn for academic freedom's specific scope and content, and especially for its constraints and responsibilities to science.

As a result, the most important critique one may make to the interpretations of academic freedom by UN bodies so far is that, like some regional bodies before them and especially the European Court of Human Rights, they have kept the international guarantee of academic freedom separate or, at least too distant, from the main international legal human right it can and should be derived from, which is the human right to participate in science. In doing so, they have prevented academic freedom from being grounded primarily in the actual object or interest it should be protecting, namely science.

This is also, this essay proposes, the best way to interpret Article 15(3) ICESCR's explicit guarantee of the 'freedom indispensable for scientific research.'

When it is interpreted from a literal and systematic perspective, first of all, paragraph 3 has been wrongly identified as guaranteeing the freedom of scientific research only. It is better read as protecting a richer and more encompassing freedom. While it certainly includes the freedom of scientific research, it also extends to a broader freedom that encompasses all aspects of scientific practice that are indispensable for science. And that is the reason that more encompassing freedom is referred to literally as being 'indispensable' for scientific research and not merely equated with it in paragraph 3. That freedom is academic freedom. Such a rich and more encompassing freedom under the human right to science encompasses the freedom of scientific research, but also the freedom of scientific teaching and learning and the freedom of scientific communication. The latter two specific academic freedoms may, of course, also be grounded additionally in Articles 13 ICESCR and 19 ICCPR. This may not only strengthen their protection, but also ease their invocation in practice – especially in domestic courts. This is also arguably how one should understand Article 13 Charter of Fundamental Rights of the European

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24 From a philosophical perspective, see: Simpson (n 4); Engel (n 4). See also, in the ECHR context and as a critique of the ECtHR's approach of academic freedom based solely on the freedom of expression under Article 10 ECHR: Joint Concurring Opinion of Judges Sajó, Vučinić and Kūris, ECtHR, *Mustafa Erdoğan and others v Turkey* (n 10) at paras 4-5.

Union's distinction between the freedom of 'scientific research' (first phrase) and 'academic freedom' (second phrase), both being grouped under the broader heading of the 'freedom of the [arts and] sciences.'

From the additional historical and teleological perspectives, second, the proposed interpretation also solves another vexed question.<sup>25</sup> It re-unites 'academic freedom' with the so-called 'scientific freedom' (as opposed to the freedom of 'scientific research' *stricto sensu* mentioned in Article 15(3) ICESCR), and hence 'academic' institutions and persons, for example, universities, research centres, professors, researchers and students, with 'scientific' ones. In doing so, it reflects the inherently participatory, collective and hence institutional nature of science as the practice of acquiring and consolidating knowledge with others: being such, that practice requires institutions in order for scientists to be able to acquire and consolidate knowledge together. It is that institutional framework broadly understood that we call 'academia.'<sup>26</sup>

This unitary conception of 'academic' and 'scientific' freedom as a single freedom held equally, but in a differentiated fashion, by different persons and institutions, goes back to the nineteenth-century Humboldtian tradition in Germany. That tradition includes at least three dimensions: the principle of academic institutional autonomy, the continuity between research and teaching,<sup>27</sup> and the combined freedom of professors and students to teach and learn (*Lehr- und Lernfreiheit*). That tradition of academic *cum* scientific freedom was then received and adapted in the (Latin) American and, later, in the United States of America's traditions. Eventually, it was integrated into the Universal Declaration of Human Rights (UDHR) in 1948 in the form of the human right to participate in science of Article 27(1).<sup>28</sup>

True, the human right to science has also long been neglected and arguably even sidelined in the human rights practice of States. To that extent, it is correct to say that it could not have made a very powerful support of academic freedom until recently. This may explain why the

25 The international human rights practice has not been very clear on the identity of either "scientific freedom" or "academic freedom", not to mention their articulation. See: Report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki 2024, at para 70 (referring to them as 'two rights'). In the European Union, and despite the more encompassing guarantee of academic freedom under Article 13 EUFRC and its interpretation by the CJEU (*Commission v Hungary* (n 10) at paras 222 ff), the debate has focused on the freedom of scientific research due to important differences between the EU's competence in the field of education and its competence in the field of scientific research in the EU treaties (compare Articles 4 and 165 Treaty on the Functioning of the European Union). See: Annex to the European Parliament (EP) resolution of 17 January 2024, Promotion of the freedom of scientific research in the EU (2023/2184(INL)) [2024] OJ C2024/5713, Recommendations as to the content of the proposal requested (Annex to the EP resolution of 17 January 2024) (see, however, para 23).

26 See: Besson, 'The Institutional Guarantee' (n 17).

27 Of course, the increasing separation of research institutions from universities in practice tends to obscure the identity between the 'scientific' and the 'academic' domains and freedoms defended here. Hence their distinction by many scholars, including: Walter P Metzger, 'Academic freedom and scientific freedom' (1978) 107 *Daedalus* 93; Barendt (n 8). Another difficulty in practice is the delineation between education institutions *lato sensu* and scientific or academic ones. This may explain why the Report of the Special Rapporteur on the right to education, Farida Shaheed 2024, para 23 rejects the distinction: "The Special Rapporteur supports this approach, in particular the concept that all researchers, educators and students are entitled to academic freedom at all levels of education."

28 The German Weimar 1919 Constitution was the first constitution to protect academic freedom, followed by the Peruvian 1933 Constitution. On the 1948 American Declaration of the Rights and Duties of Man's influence on the drafters of the 1948 Universal Declaration of Human Rights, see: Cesare P R Romano, 'The Origins of the Right to Science' in Helle Porsdam and Sebastian Porsdam Mann (eds), *The Right to Science. Then and Now* (Cambridge University Press 2021); Porsdam Mann *et al* (n 11) at 36-45; Kinzelbach (n 11).

human right to education and freedom of expression have been so instrumental, albeit this time from a human rights policy perspective, in effectively protecting both the expression and education dimensions of academic freedom in the past. The fact is, however, that the human right to science is currently being re-discovered, as the next section will explain, and this third route in the grounding of academic freedom as a human right has become worth exploring.

### 3. THE HUMAN RIGHT AND RESPONSIBILITY TO SCIENCE UNLEASHED

The right ‘to share in scientific advancement and its benefits’ was first declared in 1948 in Article 27(1) UDHR.<sup>29</sup> At the time, it was presented as a collective and active right to participate in the scientific practice and its benefits, thereby reflecting the participatory dimension of the public and common good of science it was meant to protect.<sup>30</sup>

Like other rights in the Declaration, the human right to science was subsequently confirmed in 1966 and guaranteed on a mandatory basis in Article 15(1)(b) and (3) of the ICESCR. This time, however, and following the example of other social rights in the Covenant, the right to ‘enjoy the benefits of scientific progress and its applications’ was guaranteed anew by a majority of the drafting States, albeit in the form of an individual and passive right to the redistribution of the benefits of science. This is how it became or, rather, was made irrelevant in comparison to other human rights applicable to science, including to Article 19 ICCPR’s freedom of expression. In turn, this may explain how the latter quickly became the main legal basis for the protection of the freedom of scientific expression and hence of academic freedom.<sup>31</sup>

Since 2009, however, thanks to the joint efforts of various UN bodies,<sup>32</sup> as well as academics,<sup>33</sup> the human right to science has been rediscovered and its potential unleashed. It has

29 See: UN General Assembly, Universal Declaration of Human Rights, [1948] UN Doc A/RES/217(III) A.

30 For a full argument for science *qua* public and common good, especially *qua* participatory good, see: Besson, ‘The “Human Right to Science”’ (n 17).

31 Thank you to one of the anonymous reviewers for confirming this point from a practical perspective, and especially that of the Working Group on academic freedom (n 18). See also: Kinzelbach (n 11).

32 See, in particular, the Venice Statement; UNESCO, Recommendation concerning science and scientific researchers, [2017] UNESDOC SHS/BIO/PI/2017/3 Rev, 13 (UNESCO Recommendation 2017); Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, 2012; General Comment No 25; Report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki 2024.

33 For the most important publications on the human right to science, see: Cesare P R Romano and Andrea Boggio, *The Human Right to Science. History, Development and Normative Content* (Oxford University Press 2024); Helle Porsdam, *Science as a Cultural Human Right* (University of Pennsylvania Press 2022); Mylène Bidault, ‘Considering the Right to Enjoy the Benefits of Scientific Progress and its Applications as a Cultural Right: A Change in Perspective’ in Helle Porsdam and Sebastian Porsdam Mann (eds), *The Right to Science. Then and Now* (Cambridge University Press 2021); Eibe Riedel, ‘Sleeping Beauty or Let Sleeping Dogs Lie? The Right of Everyone to Enjoy the Benefits of Scientific Progress and its Applications (REBSPA)’ in Holger P Hestermeyer *et al* (eds), *Coexistence, Cooperation and Solidarity: Liber Amicorum Rüdiger Wolfrum* (Brill/Nijhoff 2012); Amrei Müller, ‘Remarks on the Venice Statement on the Right to Enjoy the Benefits of Scientific Progress and its Applications (Article 15(1)(b) ICESCR)’ (2010) 10 Human Rights Law Review 765; Audrey R Chapman, ‘Towards an Understanding of the Right to Enjoy the Benefits of Scientific Progress and its Applications’ (2009) 8 Journal of Human Rights 1; Richard P Claude, ‘Scientists’ Rights and the Human Right to the Benefits of Science’ in Audrey R Chapman and Sage Russell (eds), *Core Obligations: Building a Framework for Economic, Social and Cultural Rights* (Intersentia 2002).

also gradually been interpreted in such a way as to recover its original collective and participatory dimension.<sup>34</sup>

The object – and therefore protected interest – of the human right to science is ‘science’ itself. What exactly is covered by human rights-protected science can, and actually should, remain contested. Indeed, it is the hallmark of any human right to make its object essentially contestable by keeping the debate about it open and by triggering that debate anew. This is something we are familiar with in the context of other human rights pertaining to otherwise controversial objects or interests, such as the rights to democracy or religion.

The fact remains, however, that by making science the object of a human right, and thus of protection as a universal and equal right, international human rights law subjects the type of science that can be protected as a human right to normative constraints. These are constraints of both ‘contextualised universality’ and ‘differentiated equality.’ First, for an interest or good to be protected as a human right, it must not only be universally shared, but also shareable in different contexts. The knowledge and the practices involved in acquiring and consolidating it should therefore be universal, albeit in different contexts. They can, and indeed must, be situated or contextualised within the multiple scientific communities that produce them across time and space. What the human right to science protects, in other words, is the contextualised universality of science without any uniformity requirement. Second, for an interest or a good to be protected as a human right, it must not only be shared equally, but also be shareable on the basis of different and often unequal capacities. The knowledge and the practices involved in acquiring and consolidating it should therefore be equal, albeit in their diversity. They can, and indeed must, be exercised in multiple capacities over the long arc of knowledge, for example, as students and professors or as scientists and non-scientists. What the human right to science protects, in other words, is the differentiated equality of scientific rights without an identity requirement and, most importantly, without an equal right of everyone to become a scientist.

Within those two constraints, a minimal conception of science as the object of the human right to science may be drawn from the UN bodies’ gradual consolidation of the practice of States.<sup>35</sup> In that context, science may be defined as, on the one hand, any body of knowledge (applied or not) of which there may be many diverse forms (for example, natural, social or human sciences, including local or traditional knowledge) and, on the other hand - and without being able to separate the process from its outcome - the social practice by which that body of knowledge is constantly acquired and consolidated over time and space. To be considered scientific, moreover, this body of knowledge should be reliable, so that it can benefit from (epistemic) authority in any given scientific community, and thus be distinguished from charlatanism or pseudo-science. It should also – and this is no contradiction with its reliability – remain contestable, so as to be distinguished from purely dogmatic or religious knowledge whose authority rests solely on tradition.

By virtue of its protected interest or object, the human right to science is best considered as a social and a cultural right. This translates into important features of the right to science in terms of content, right-holders and duty-bearers.<sup>36</sup>

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34 For a full argument, see: Bidault (n 33); Besson, ‘The “Human Right to Science”’ (n 17); Besson, ‘The Institutional Guarantee’ (n 17). See also: Report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki 2024.

35 See: Report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki 2024, at paras 22 ff; General Comment No 25, at paras 4 and 5; UNESCO Recommendation 2017, at paras 1a)i) and ii).

36 For a full argument, see: Besson, ‘The Institutional Guarantee’ (n 17).

First of all, and in terms of content, the human right to science encompasses a bundle of scientific rights that can be subdivided into three groups.<sup>37</sup>

It covers, first and foremost, the right to access and participate in scientific practice, and this through scientific freedom, but not only. This right to access and participation also extends to the organisation of science itself, since the latter is a participatory practice to be instituted and organised. Second, it is also a right to access and participate in the benefits of science. It would be a mistake, however, to draw an artificial distinction between scientific practice and its benefits, and, by extension, between participation in one and participation in the other. Science, understood as a cultural and participatory practice, is a continuous and open-ended process of creation. Third, the human right to science also encompasses the right to be protected against its harmful effects. This arises when scientific activity undermines other interests and rights of human rights holders, or even the interest in science itself, particularly insofar as science must remain universal and egalitarian, as mentioned earlier.

Furthermore, all three dimensions of the human right to science have a cooperative dimension due to the potentially universal scope of the scientific practice and of the standard threats weighing on it: all three types of scientific rights can only be protected effectively if States and all other responsibility-bearers for the right to science cooperate in protecting those rights in every jurisdiction at the same time, including, of course, albeit not solely, when they exercise joint or concurrent jurisdiction over a given right-holder. This is what Article 15(4) ICESCR confirms with its reinforced duty of cooperation under the human right to science.<sup>38</sup>

Second, the right-holders of the human right to science are of two kinds.

On the one hand, the right to science is a right held by every human being, both individually and – more often given the participatory nature of science – together with others, and thus collectively. This dimension corresponds to the personal guarantee of the right. It applies equally to those whose profession is science ('scientists' in the strict sense), and to all other individuals acting in their own capacity.<sup>39</sup> This is also the reason why, referring to the first two types of scientific rights mentioned earlier, it is not possible to strictly separate scientists' right to participate in science from non-scientists' right to benefit from it.<sup>40</sup>

On the other hand, and again by virtue of the collective dimension of science as a participatory practice to be instituted and organised, groups such as scientific institutions are also holders of the human right to science. And this applies whether these institutions are local (national or indigenous) or transnational. This corresponds to the institutional guarantee of the right, which covers in particular a right to self-organisation and self-regulation of these scientific institutions. This is what is called scientific 'autonomy' by reference to those institutions' right to adopt their own scientific norms and professional standards.

Third, and finally, as is the case in international human rights law in general, the duty-bearers of obligations based on the human right to science are States. Of course, these States also incur positive obligations to protect against violations of the human right to science caused by scientists and scientific institutions themselves or by any other private person or institution. In addition to the obligations of States, however, one should mention the responsibilities of all subjects of international law with regard to the human right to science. It is in this capacity that scientists and scientific institutions also incur responsibilities under the human right to science. It is especially the case in the

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37 See: the Venice Statement, at para 13; General Comment No 25, at para 15.

38 See: General Comment No 25, at paras 77 ff. See also: Besson, 'International Cooperation' (n 17).

39 See: General Comment No 25, at paras 9-10.

40 Ibid.

exercise of their right to self-organisation and self-regulation of their scientific practices. These scientific responsibilities are the counterpart of the institutional guarantee of the rights of scientists and their institutions mentioned earlier.<sup>41</sup>

Now that the human right to science has been not only rediscovered, but also interpreted so as to recover its original collective and participatory dimension, it is time to give it a more central place in the re-grounding and interpretation of academic freedom in international human rights law, as the next section will argue.

#### **4. ACADEMIC FREEDOM AS THE ‘FREEDOM INDISPENSABLE’ FOR SCIENCE UNDER THE HUMAN RIGHT TO SCIENCE**

The proposed argument in this essay is that interpreting academic freedom as the ‘freedom indispensable for scientific research’ under Article 15(3) ICESCR could contribute to re-grounding the right in its primary object or interest, that is, science or the acquisition and consolidation of knowledge.

To that extent, the normative structure of the human right to science in general presented in the previous section could have important implications for the right-holders, duty-bearers and scope of academic freedom itself. As a matter of fact, interpreting academic freedom as the ‘freedom indispensable’ for science guaranteed by Article 15(3) ICESCR actually best captures academic freedom’s three unusual dimensions that are often deemed problematic in the contemporary practice of States. Indeed, those three dimensions of academic freedom match those of the right to science itself: its individual *cum* collective dimensions and its personal *cum* institutional dimensions; its freedom *cum* responsibility dimensions; and its equal albeit differentiated application to both academics and non-academics and to both professors and students at the same time.

First and with respect to academic freedom’s right-holders: the proposed interpretation based on the human right to science fits and justifies the individual and collective, on the one hand, and the personal and institutional, on the other, dimensions of academic freedom in practice.

On the one hand, indeed, approaching academic freedom as the freedom for science protected under Article 15(3) ICESCR sheds light on the participatory dimension of academic freedom even when it is a personal freedom. It may be invoked individually, of course, but is more likely to be invoked and exercised with others, and hence collectively, inside an academic institution. Professors or researchers are never alone in their scientific practice and exercise their academic freedom collectively therefore.<sup>42</sup> Moreover, and for the same reasons, their research practice is closely related to their teaching. To that extent, their academic freedom is also closely related to that of another collective, namely their students or broader audience.<sup>43</sup> On the other hand, academic institutions themselves may invoke their academic freedom in the form of institutional autonomy, including the rights to self-organisation and self-regulation.<sup>44</sup> Crucially, this autonomy serves to protect the academic freedom of their professors, students and researchers when it is under

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41 For a full argument, see: Besson, ‘The Institutional Guarantee’ (n 17).

42 See: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye 2020, at para 8.

43 See: Principles for implementing the right to academic freedom, Principle 8; General Comment No 13, at para 38.

44 See: General Comment No 13, at para 40; Committee of Ministers, Council of Europe, Recommendation of the Committee of Ministers to member States on the responsibility of public authorities for academic freedom and institutional autonomy, [2012] Recommendation CM/Rec(2012)7, para 5; CJEU, *Commission v Hungary* (n 10) at para 227.

threat. For this reason, academic institutions should not be assimilated to other public administrations, nor should their members be equated with ordinary public officials or civil servants.<sup>45</sup>

Second, and with respect to academic freedom's duty-bearers and responsibility-bearers, the proposed interpretation based on the human right to science also fits and justifies the practice of academic freedom as both a freedom and a responsibility. More specifically, approaching academic freedom as a freedom for science under Article 15(3) ICESCR sheds light on its very specific and dual supply-side.

In terms of duties,<sup>46</sup> on the one hand, States should guarantee the institutional autonomy, be it financial, legal or administrative, of academic institutions, including their right to self-organisation and self-regulation. And this, especially to counter the increasing constraints of public accountability, assessment exercises and other forms of control that may otherwise weigh on those institutions were they to be treated as any other public administration. States incur negative duties of abstention when interfering with academic freedom, but also positive duties of prevention, protection and enforcement with respect to it. They especially have positive duties to protect academics and academic institutions against violations of their academic freedom caused by other States, private persons and institutions, for instance through funding pressure and the strings attached, and even by other academics and students themselves, as exemplified by cancel culture or faculty surveillance.

In terms of responsibilities, on the other hand, academics and academic institutions are not only right-holders, but also responsibility-bearers of academic freedom.<sup>47</sup> Like the science it is grounded in, indeed, academic freedom is a common good – one that is a common concern of its right-holders. This therefore also gives rise to responsibilities to science. Those responsibilities are not only ethical and internal to the academic self-regulatory framework of scientific or professional ethics, they are also based in the international legal human right to science itself.

Academics' responsibilities, on the one hand, include, most importantly, the responsibility of scientific integrity and of a science-minded use of academic freedom, including academic expression.<sup>48</sup> That responsibility for the protection of the human right to science, and more specifically to science itself as object of that human right, actually works as an internal and inherent limit to academic freedom.<sup>49</sup> On the other hand, academic institutions' responsibilities to academic freedom include various responsibilities such as the responsibility (and not only a right) to self-organise and self-regulate so as to protect academic freedom. They also include a negative responsibility of academic institutions to abstain to act or to speak out in cases that do not pertain to science (so-called institutional 'neutrality' or 'reserve')<sup>50</sup> or, conversely, a positive responsibility to act or speak out in cases in which their academic freedom, that of their members, and that of other

45 For a discussion, see: Besson, 'The Institutional Guarantee' (n 17).

46 See: Principles for implementing the right to academic freedom, Principle 9; UNESCO Recommendation 1997, at para 33.

47 See: Principles for implementing the right to academic freedom, Principle 9; General Comment No 13, at para 39; UNESCO Recommendation 1997, at para 33. See also: Annex to the EP resolution of 17 January 2024, at para 2.

48 See: Principles for implementing the right to academic freedom, Principle 4.

49 See, for example: General Comment No 25, at para 6.

50 See: Robert C Post, 'The Kalven Report, Institutional Neutrality, and Academic Freedom' in Keith E Whittington and John Tomasi (eds), *Revisiting the Kalven Report: the University's Role in Social and Political Action* (Johns Hopkins University Press forthcoming), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4516235](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4516235) (accessed 25 March 2026).

academic institutions are threatened and need institutional protection (so-called institutional ‘non-neutrality’ or ‘non-reserve’).<sup>51</sup>

Third, and with respect to academic freedom’s scope, the proposed interpretation based on the human right to science captures the ‘equal albeit differentiated’ and the ‘universal albeit contextualised’ academic freedom of both academics and non-academics and of both professors and students in practice. Approaching academic freedom as a freedom indispensable for science under Article 15(3) of the ICESCR sheds light on its very specific personal, geographical and material scope.

Starting with its personal scope, first, academic freedom is guaranteed equally to all human beings, but this does not prevent a differentiated application depending on the epistemic requirements (for example, a doctorate or publications) set by academic institutions and their members exercising their academic freedom. The academic freedom of a professor and that of its audience in the public are not the same. The only requirement is that those epistemic requirements be applied equally and that access to the academic profession remain equal as a result. Academic freedom does not, in other words, ground a human right to become an academic. Importantly, however, like the human right to science itself that spans over the entire practice of science and without interruption from production to benefit, academic freedom is shared by academics and non-academics alike. It simply has a different content in terms of rights and responsibilities depending on the professional status of each right-holder inside and outside academia. Thus, while a researcher may vindicate the right to organise a scholarly conference on a given topic, the general public with an interest in this topic should likewise be recognised a right - not so much to organise the conference itself, but to attend it and to access the ensuing publications. A similar relationship exists between the academic freedom of professors and that of their students: their respective freedoms are situated along a continuous spectrum that spans teaching and learning.

Second, the geographical scope of academic freedom mirrors that of science as a public good and therefore extends across the entire public sphere, both domestic and international. This implies that academic freedom, like science itself, cannot be effectively protected against the structural threats to which it is vulnerable unless it is protected everywhere at the same time. In turn, this means that, notwithstanding the undeniable value of academic refugee programmes in the current dire circumstances faced by academics in many places in the world, the effective protection of academic freedom ultimately depends on international cooperation. It is through such cooperation that all States collectively must seek to safeguard academic freedom, simultaneously at home and abroad.

Finally, regarding academic freedom’s material scope, approaching it as a freedom for science under Article 15(3) of the ICESCR also sheds light on its public relevance and hence on its applicability both inside and outside academic institutions and in different fora of dissemination of scientific knowledge to the public.<sup>52</sup> Of course, this requires that the right-holders act as academics, be they researchers, professors or students, even when they intervene outside an academic institution or context. In turn, they must abide by their responsibilities to science grounded in their academic freedom. This gives rise to two specific requirements if those interventions are to be protected under academic freedom: first, that they express themselves only within the scope of their academic

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51 See: Cécile Laborde, ‘Sur le positionnement politique des universités’, (2024) *AOC*, available at <https://aoc.media/analyse/2024/10/22/sur-le-positionnement-politique-des-universites/> (accessed 25 March 2026); Moody-Adams (n 4).

52 See: Principles for implementing the right to academic freedom, Principle 4. See also the three-pronged test proposed for the protection of *extra muros* academic speech in: Joint Concurring Opinion of Judges Sajó, Vučinić and Kūris in ECtHR, *Mustafa Erdoğan and others v Turkey* (n 10) at paras 7-8.

competence; and, second, that, when they do so, they comply with the epistemic constraints that come with that expertise. Conversely, when non-academics are invited to speak in an academic institution or context, it is a responsibility of the academics and academic institutions inviting them to make sure their guests comply with the academic responsibilities that come with the hosts' freedom, including scientific integrity and epistemic constraints.

## 5. CONCLUSION

The re-grounding and systemic interpretation of academic freedom proposed in this essay fits the interpretations recently developed by UN bodies, while making them more coherent and justifying them more systematically by reference to the human interest and right to science. By complementing them, it counteracts the exclusively individualist and liberal interpretations of academic freedom that have been developed in certain domestic (such as France or the United States of America) and regional (such as the European Union or the Council of Europe) contexts by reference to freedom of expression only.

Of course, more inter-State cooperation is required for the reinforcement of the common protection of academic freedom in international human rights law in the future, including at the regional and inter-regional level.<sup>53</sup> Academics themselves should mobilise more actively to consolidate such a world-wide minimal, common conception of academic freedom. They should also take greater care to articulate their ethical understandings of academic freedom squarely within the framework of international human rights law.<sup>54</sup> This is how international lawyers and members of the academic community, in their various capacities, can strengthen collective action and protect what is a shared interest of humanity. After all, to paraphrase Paul Ricœur, academic freedom is not only a human right, but also a human responsibility to science.<sup>55</sup>

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53 See: Report of the Special Rapporteur on the right to education, Farida Shaheed 2024, at paras 15-16, 19 and 81 ff. For the European Union: Annex to the EP resolution of 17 January 2024, at paras 22-23. For the Council of Europe: Recommendation 1762 (2006), at para 7.


54 See: Report of the Special Rapporteur on the right to education, Farida Shaheed 2024, at paras 6 and 81.

55 See: Ricœur (n 7) at 13: "Précisément, parce que le droit de la communauté universitaire se fonde dans son rapport à la vérité et se fonde dans un *droit de l'humanité*, il n'est ni anarchique, ni oligarchique, ni corporatif. Le refus de la censure politique n'en est même que l'envers, le négatif. La liberté académique est définie positivement par la *responsabilité à l'égard du savoir*." (emphasis added). This translates as: "Precisely because the law of the academic community is grounded in its relationship to truth and in a *right of humanity*, it is neither anarchic, nor oligarchic, nor corporatist. The rejection of political censorship is merely its flip side, its negative. Academic freedom is defined positively by a sense of *responsibility towards science*." (unofficial translation).

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