

Joint contribution to the evaluation of the 2003/07 Act on Universities from representatives of students and university teachers:

Why we need a new university law

1. Introduction

This contribution will first briefly set out the DM and DSF arguments for a new law and our definition of the purpose and concept of a university. We find that any proper evaluation of the law must be based on a clear understanding of the unique role of a university in the knowledge economy and the core values, rights and responsibilities of academia.

The governance of a university – in the proper sense of the word - and the working conditions for student and staff must meet a number of common criteria, and the reference points should primarily be the 1997 UNESCO Recommendations, the Magna Charta Universitatum and the 2006 Declaration from the European Council.

But apart from such a set of common criteria, which all university statutes should meet, the university act should allow for true autonomy of the universities, which means the freedom to set up their own statutes, the specific details of which should not be subject to ministerial approval. Even in a small country such as Denmark, conditions vary from university to university with different historical traditions and relations to the local community such as business and industry, unions, local authorities, cultural institutions as well as other sectors of the education system. A new university law should allow for the statutes of the individual university to reflect its special situation. This means that the great number of clauses in the existing law which give the minister powers of detailed regulation of academic matters and governance structures of the universities should be reduced to a minimum.

This contribution will not go into detail on all aspects of the university law, but we will point out crucial aspects of the act that in our opinion must necessarily be amended in order to re-establish universities in the true sense of the word.

We share the Government's ambition for Danish universities of the highest international standard that will be able to collaborate and compete with universities worldwide. But it is our assessment that important aspects of the 2003/07 law actually work against this goal. It is therefore our opinion that the evaluation of the law must lead to fundamental changes of the law.

2. What should a new university law achieve?

A new act should seek to establish a new social compact between the universities and their stakeholders and constituencies, which include staff, students, the local community, local businesses etc. Such a social compact should be characterised by a recognition of the unique role that universities have to play in the knowledge economy and the special freedoms, and consequent professional responsibilities, given to those who work in Universities – from the Rector, down to the first year student.

A new university law should therefore ensure that the universities are redefined as institutions whose primary purpose is the intellectual development of future generations. It is the responsibility of the universities to develop and further advance society's collective knowledge base at the highest

international level. Knowledge is primarily disseminated to society at large through the education of students at all levels - be it bachelor, master, or Ph.D. programmes - and basic research is the primary means of further development of the knowledge base.

A university is characterised by research based education, and by research as a collaborative endeavour of students and researchers. Much university research is advanced through the interaction between students and university teachers. The intimate connection between teaching and research where students are actively involved in generating new knowledge is the most effective measure of quality assurance.

The purpose of university education is two-fold: to develop the intellectual capacity of the students so as to enable them to find solutions to complex and unforeseen problems and challenges, and to ensure that they are given access to and themselves capable of developing the most advanced knowledge and skills within their special subjects and disciplines.

In order to fulfil its purpose, such as it is briefly sketched above, a university must be ensured genuine autonomy. All decision making on essential academic matters must be vested in the university, and not in ministerial departments. Just as important, however, is academic freedom for university teachers and students as well as their direct influence on essential decisions on research and educational priorities. Academic freedom and university autonomy must go hand in hand to protect academia from irrelevant and undue external demands and pressures - political as well as commercial – that may undermine the fundamental purpose of the university.

University autonomy should be balanced by a set of common criteria that all university statutes should comply with and that should therefore be set down in a framework Act on Universities, such as:

- **Academic freedom**
- **Principles of governance restoring the voices of academic staff and students and securing checks and balances in the power structure by defining the respective roles of the Minister, the Rector, the Board and the Academic Council**
- **No tuition fees**
- **Fair working conditions with tenure as the guiding principle**
- **Research based education**

3. Specific suggestions for change

In order to ensure the above fundamental principles, we suggest the following essential changes to the existing law

- **Scope of the Act:**
1(2) The autonomy of universities should be stated clearly from the start. We therefore suggest that this clause is rewritten along these lines: *The universities are independent autonomous academic institutions under the public-sector administration and responsible to the Minister of Science, Technology and Innovation.*
- **Purpose:**
2(1). We suggest that this clause uses the 1994 OECD definition of research (1), underlines free and basic research and makes the university responsibility to staff clear: We suggest, therefore, that the first

sentence be replaced by the following: *The university shall enable its staff to freely and independently conduct basic research, applied research and experimental development, and offer research-based education at the highest international level in the disciplines covered by the university*

2(2) This is a crucial clause, but in its present form is very imprecise, as it does not make it clear who or what the university is, and who has responsibility for safeguarding freedom of research. We suggest it replaced by wording that states that *the academic community (including staff and students) has academic freedom, and the Board and Rector shall safeguard this freedom and ensure the ethics of science*. We further suggest that the ethics of science are described in detail, if only in the notes on the law. Such description should define the freedoms and responsibilities of the university academic staff as researchers, teachers and as citizens. We have included a proposal in the footnotes (2)

- **Degree programmes:**

8(2) The law must not open up for any tuition fee from students. Therefore the last words of this clause “*or the student*” should be omitted.

- **Governance regulations:**

The law need not set out governance structures in detail, as statutes and regulations should be within the individual university’s autonomy. Nor should the act empower the minister to require the university to enter into performance contracts about the nature and scope of its activities.

10 (6) Consequently, the sentence “*these shall be subject to the Minister’s approval*” should be omitted, and

10(8) should be omitted altogether.

Without going into detail about the number of internal and external members of the board or the precise composition of academic councils and sector boards, the new act on universities should make it clear that all university statutes must restore a more balanced governance structure between the Board, the Rector and the Academic Council. This means that

10(11) as a minimum must include wording that ensures that students and staff have direct influence on the appointment and dismissal of the Rector.

12 (1) should prescribe a better balance between external members, academic staff, technical-administrative staff and students. There should never be an overall majority of external members over students and staff, and the chair should be elected from among all its members by a simple majority.

12(3) External members should be drawn from a variety of stakeholders relevant to the individual university, such as: business and industry, unions, organisations representing art and culture and local authorities. Representatives from other universities, including other Nordic universities, could also make a valuable contribution to the board.

14 – 15 – 16- 17: These sections on the Rector, the Dean, Academic units and the Academic Council should be replaced by a clause requiring the Rector, the Dean, the Head of Sector/ the Director to involve the Academic Council as partner in their decisions. The Academic Council whose members have the deepest professional knowledge of academic matters should be given direct decision making powers. Furthermore, the establishment of a Department board would ensure a better balance of power.

16 a. (7) and 17 (2) **These are particularly important clauses.** As they read in the existing law, the individual researcher is not guaranteed time for free research. There could be a number of ways of ensuring this. One is to set a limit to the time consumed by other tasks. In both of these clauses we consequently suggest the following addition after **specific tasks: ...in accordance with section 2(4). The time consumed by such tasks may vary over time, but on an average should not exceed two thirds of the normal working week. During the periods in which members of the academic staff are not performing such tasks, they shall conduct research in accordance with 2(2) of this act.**”

- **Tuition fees**

26 . The new law must not open up for any tuition fee. We suggest that a clause be added that states that *the university shall not require payment for admission to academic programmes, tests and other assessments as part of an exam in connection with a study programme on a full time basis.*

Notes

1) OECD (1994) *Main Definitions and Conventions for the Measurement of Research and Experimental Development: A Summary of the Frascati Manual* OCDE/GD(94)84, (Paris: OECD), p.7.

2) University academic staff are entitled to full freedom to determine the subject and method of analysis of their research and in the dissemination of the results of their research, subject to the adequate performance of their other academic duties; but research for external agencies must be based on an understanding with the authorities of their institutions.

ii) University teachers are entitled to freedom in the classroom to determine the subject curriculum to be taught, the teaching method to be adopted, and the mode of assessment to be used. University teachers must ensure that they do not introduce into their teaching controversial matter which has no relation to their subject.

iii) University teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from university censorship or discipline, but their special position in the community imposes special responsibilities and obligations. As scholars and educational officers, they must remember that the public may judge both their profession and their institution by their utterances. Hence they should at all times: strive to be accurate; exercise appropriate restraint; show respect for the opinions of others; make every effort to indicate that they are not speaking for the institution.

Ingrid Stage, Maren Astrup