

A Discussion Paper¹

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1. The Canadian higher education landscape

Many of Canada's earliest universities were established as Christian denominational institutions. Of the 17 universities in existence at the time of confederation, 13 were denominationally controlled². Of these original denominational universities, many either became affiliates of larger institutions and agreed to limited programmatic offerings, or chose to abandon their religious roots in favour of provincial funding. By the beginning of the Second World War there were 28 degree-granting universities in Canada. For many reasons, the number of provincially chartered universities has grown significantly during the past 75 years. Today, there are 96 members of Universities Canada³ (UC), four of which are faith-based institutions.

The increase in the number of universities in Canada coupled with an institutional desire to replicate a comprehensive array of undergraduate, graduate and professional programs and a robust research culture has resulted in what is arguably an unsustainable system of publicly-funded higher education in Canada. During the past few decades, Canadian universities have seen a reduction of roughly 15% of their operating revenues from government operating funds⁴. As well, there is a growing recognition that greater differentiation in the Canadian higher educational system is needed. A faith-based institution such as Trinity Western University has much to contribute in these regards. Since it doesn't receive government funding for its operations, TWU provides a great value proposition as its graduates in many programs are sought after for

¹ This paper was originally drafted in January 2014 for internal discussion purposes. At that time, Dr. Penner was the Chair of the Faculty Association. Upon recommendation of the Academic Freedom Joint Task Force/University Senate, the authors have updated the draft document to make it available on the University web site.

² <http://www.thecanadianencyclopedia.com/en/article/university/>

³ Formerly the Association of Universities and Colleges of Canada.

⁴ See, for example, the February 10, 2016 Higher Education Strategy Associate's One Thought to Start Your Day: False Charges of Austerity.

employment. TWU has also provided leadership in establishing a faith-based sector in Canadian higher education.

2. What is academic freedom?

Academic freedom is the freedom of scholarly individuals and institutions to teach and research without the constraint of special interests that may hinder the scholarly pursuit of truth which is at the heart of the academic enterprise. Academics conduct, disseminate, and teach the skills necessary for, research and inquiry specific to their own disciplines. It is through these disciplinary “lenses” that academics investigate the world in order to understand, as best as one is able, the truth about the world. How and to what degree an individual or institution experiences academic freedom is a function of the authoritative, governing body that regulates the life of the individual or institution. Both at the institutional level and at the level of individual scholarship, authoritative bodies set the parameters in which academic freedom is managed.

At the institutional level, Canadian universities are free to pursue their academic and scholarly mission within the constraints set for them by their provincial governments. For example, no institution is free to operate as a university without a provincial charter, and no universities are free to offer degrees without having programs approved by the relevant provincial regulatory bodies. Academic freedom for institutions means that so long as they remain within the boundaries set for them by their legislative charter, institutions are free to set their own mission and priorities as an academic and scholarly enterprise. As most universities in Canada are publicly funded, provincial governments can exercise a measure of control over universities through funding decisions.

At the level of individuals, scholars enjoy academic freedom to the degree to which they are empowered to pursue their teaching and research within the constraints set for them by the institution at which they are employed and the professional guilds of which they are a part. Governing bodies of both universities and professional guilds articulate and maintain standards for the professional activities of the community of scholars under their jurisdiction. Academic freedom for individual scholars means that so long as they are operating within the standards of professional conduct set by their institution and their professional guild, scholars are free to conduct and disseminate research without constraint.

3. How can academic freedom be threatened?

Anything that hinders the scholarly pursuit of truth can threaten academic freedom. Common examples include: university officials acting punitively toward faculty for publishing or teaching content which, for non-academic reasons, is considered inappropriate, faculty applying pressure to their colleagues or students to suppress or adopt certain perspectives deemed to be ‘politically correct’, and corporate sponsors pressuring universities to highlight or suppress certain research results. It’s for these reasons that the practice of academic freedom has evolved to include freedom for faculty to criticize their university publicly and to be involved in the academic administration of their institution.

When a threat to academic freedom arises, an overly simplistic and strongly held view can interfere with the normal academic process of wrestling with complex questions; the process by which the university deals with the threat will determine the degree to which the threat is resolved or carries a lingering effect in the academic community of the institution. It is worth noting that whereas one of the greatest threats to academic freedom at church-affiliated institutions such as Harvard and Yale in their early years was derived from pressure for faculty to be “denominationally correct”,⁵ the pendulum has now swung to the extreme that there is generally a “pervasive intolerance of all things religious”⁶ in some contexts at public institutions. While there continues to be a rich array of different kinds of colleges and universities in the U.S., including faith-based schools, Canadian universities are much more homogeneous in their secular nature.

Threats to academic freedom at faith-based universities can arise from tension between a faith-based university and its religious constituency. Many Church communities see themselves as defenders of their particular version of Christian faith; whereas faith-based universities are, by their very nature, designed to question and critique anything that doesn’t “fit” well with new knowledge. As a result, many within churches do not understand or appreciate why a faculty member would engage in research that could appear to undermine or contradict some aspect of the church’s theology. Meanwhile, faculty members at a faith-based institution need to engage in disciplinary research in a manner that is appropriate to their respective guilds, while at the same time recognizing that all knowledge inquiry is filtered through the lens of a particular worldview. Without a clear understanding of how a faith-based university can resource faith communities while contributing to the academy and the public good, it is likely that some circumstance will arise from within faith communities that triggers a threat to academic freedom.

4. Why is academic freedom essential to the university enterprise?

Universities exist to serve the public good by being centers of teaching, research, and scholarship in order to produce and disseminate knowledge from the academy to numerous constituencies. These constituencies include students, scholarly peers, governments, and the public at large. In order for the academy to truly and effectively increase our understanding, universities must safeguard the pursuit of truth that is, fundamentally, the goal of each area of inquiry. Thus academic freedom, which ensures that the scholarly pursuit of truth will be unhindered by special interests, is crucial to the university enterprise.

More specifically, academic freedom is essential to the Christian, faith-based university. Of all people, Christians should support and protect the pursuit, acquisition, and dissemination of truth. If the phrase “all truth is God’s truth” means that there is no actual truth hidden from God and no

⁵ Anthony Diekema, *Academic Freedom & Christian Scholarship*. Grand Rapids: William B. Eerdmans Publishing Co., 2000, p. 22.

⁶ *Ibid.*

fact discoverable that contradicts God's ultimate purposes or nature, then Christians have nothing to fear from pursuing and acquiring truth across all the available academic disciplines. Christians hold that not only is truth discovered, but that truth is also revealed through God's willing self-disclosure. In different ways and degrees, Christians throughout the centuries have sometimes experienced tensions between claims of truths discovered and perspectives on truth revealed. As a community of Christian scholars, Christian universities are ideally suited to assist the broader Christian community in navigating these tensions.

5. How is academic freedom at TWU different from academic freedom at public universities in Canada?

In a few basic respects, academic freedom at TWU is similar to academic freedom at publicly funded universities, both at the institutional and at the individual level. At all Canadian universities, private or public, universities are free to define their mission and identity within the provisions granted to them through their provincial charter. Moreover, faculty at all Canadian universities, private or public, are guaranteed the freedom and protection to pursue their scholarly activity within the boundaries of professional conduct set for them by their institution and professional guilds. As a provincially chartered liberal arts and sciences university, TWU is no different from publicly funded universities in these respects.

Where TWU is quite different from its publicly funded counterparts is with respect to the additional voluntary and mutually agreed upon standards for identity and criteria for professional conduct that are essential to TWU's identity and mission as a Christian liberal arts and sciences university. This means that the boundaries within which academic freedom flourishes at TWU will look different from the boundaries within which academic freedom exists at public universities. This different context for academic freedom at TWU is not an accidental byproduct of TWU's existence, but instead is by design and is an intended outcome desired by all TWU stakeholders, including TWU's board of governors, senior administrators, and faculty. TWU intends and expects that its faculty is a community of Christian scholars. As such, the articulated standards for professional conduct at TWU, in addition to containing the traditional academic standards for scholarly excellence common to all universities, also include standards that are appropriate for forming and maintaining a community of Christian scholars.

6. What are the roles of the community covenant and the statement of faith in relation to academic freedom at TWU?

TWU's community covenant and statement of faith articulate the framework within which academic freedom exists at TWU and are themselves expressions of the academic freedom and autonomy guaranteed to universities to set their own unique identity and mission within the common university enterprise. Adhering to the statement of faith and community covenant is both a condition of employment and a voluntary act of TWU faculty who choose to join TWU.

TWU's community covenant and statement of faith are the university's means to identify common standards of belief and conduct appropriate for forming and maintaining a community of Christian

scholars. Indeed, without some common, agreed upon criterion for self-selection into a Christian academic community, it would be nearly impossible for TWU to form and maintain its identity as a Christian university and it would therefore be nearly impossible for TWU to fulfill its provincially chartered mandate to be a Christian university. As with many other policies and governing documents, community covenants and statements of faith may change over time. Due to the nature of these documents in relation to academic freedom, it is important that the university provide appropriate means for the faculty to speak into proposed changes to either document.

7. What role do faith-based institutions play in the Canadian higher education landscape?

As a robust, multicultural society, Canada values and promotes the rich cultural diversity that is the fabric of Canadian life. Part of the diversity experienced in Canada is religious diversity. Religious diversity can be expressed in several ways, including through the numerous different religious perspectives present in Canada, or via one particular religious outlook held by a variety of different ethnic and cultural communities. The existence of faith-based universities in Canada is a reflection of the diversity within Canadian culture and provides variety in what is otherwise a very homogenous Canadian university system.

A challenge for any society that seeks to promote and celebrate diversity is to foster a sense of community amidst diversity. A faith-based university provides a means by which academic principles can be brought to bear on issues of tension between faith-based communities and society in a manner that, hopefully, can maintain the confidence of both the faith-based community and the broader academic community. Faith-based universities have the opportunity to play an important role in building bridges between their faith communities and the larger society. If this opportunity is not realized, it is likely that Canadian society would become increasingly fragmented.

8. How is the Canadian perspective on academic freedom at faith-based institutions changing?

The Canadian Association of University Teachers (CAUT) formed in 1951 but did not deal with academic freedom for professors in a meaningful way until 1958. Within a few years, the CAUT became a strong voice on academic freedom with an established committee on academic freedom and tenure. In 2006, CAUT developed a policy statement indicating that it would initiate an investigation of any institution imposing an ideological or faith statement as a condition of employment. This policy pre-determines that it is a violation of academic freedom for an institution to have a required statement of faith. Once the policy was adopted in 2006, CAUT began to apply it to faith-based universities, starting with Trinity Western University – it is the largest, perhaps a flagship. CAUT instituted an ad hoc committee which visited the university and met with faculty and administration. In 2009, it issued a report indicating that it considered that TWU violates academic freedom. CAUT followed this up with investigations at other institutions: Crandall University in Moncton and Canadian Mennonite University in Winnipeg in

2010; Redeemer University College in Ancaster, Ontario in 2011; and Providence University College in Manitoba in 2012.⁷

As noted above, faith-based universities, including Trinity Western University, see themselves as faith-based communities of teaching, research and scholarship. The statement of faith sets a common faith foundation for this community. There is a much more robust understanding of institutional identity and institutional religious freedom in the U.S., where there are many more faith-based institutions. In 1940, the American Association of University Professors, the U.S. equivalent of CAUT, recognized the unique position of religious educational institutions. Their 1940 Statement of Principles on Academic Freedom and Tenure requires that “limitations on academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of appointment.” The AAUP appears to have revised this position in 1970 yet faith-based institutions like Brigham Young University still rely on that provision to maintain their Statement of Faith and institutional identity while safeguarding academic freedom.

UC appears to have worked towards having common statements with CAUT on academic freedom but this has not been successful.⁸ UC has established statements on academic freedom and requires certain standards as a condition of membership in UC.

9. What constitutes adequate protection of academic freedom at a faith-based institution?

A case has been made above that faith-based institutions can play an important role in Canada by building bridges between faith and academic communities and in so doing provide an important service to the broader society at large. Faith-based institutions are generally not as well understood in the Canadian context as they are, for example, in the United States. There are some who would call into question the legitimacy of the expression of academic freedom at faith-based institutions. Ironically, arguments to eliminate or marginalize faith-based institutions that have adequate mechanisms to safeguard academic freedom actually violate the institutional academic freedom of the faith-based institution itself. At the same time, the place of a faith-based institution, or any institution for that matter, that does *not* adequately protect academic freedom *should* be challenged. The fundamental question then is what constitutes adequate protection of academic freedom at a faith-based institution?

It is generally agreed that faith-based institutions must clearly communicate statements of faith and/or codes of conduct requirements at the point of hire, and have adequate procedures in place to deal with instances when those requirements are not met.

⁷ See CAUT, “Universities that impose a faith or ideological test,” <https://www.caut.ca/latest/publications/academic-freedom/universities> (accessed 05/03/2018).

⁸ Michiel Horn, *Academic Freedom in Canada: A History*. Toronto: University of Toronto Press, 1999, pp. 248 and 311.

Government degree-granting bodies, Ministries of Advanced Education, have tended to give religious institutions a measure of autonomy. One example is British Columbia. There is a policy at the Ministry which sets out specific provisions for institutions with a required Statement of Faith for faculty members:

When students or staff are asked to sign or adhere to a statement of faith and/or a code of conduct that might constitute a constraint upon academic freedom, a policy in which the applicant:

- notifies staff and students prior to employment or admission; and,
- has adequate procedures in place to ensure the principles of natural justice are followed, in the event of alleged violations of any contractual arrangement concerning such required statement of faith and/or code of conduct.⁹

10. Academic freedom and TWU

The following points represent key elements of academic freedom at Trinity Western University:

- TWU has valued academic freedom throughout its history, and has had a statement of academic freedom since 1980. One of the TWU Senate's responsibilities is to "establish specific policies, procedures, standards, and quality controls and monitor academic affairs in relation to academic freedom [one of eight named categories]".
- TWU's application to the B.C. Ministry of Advanced Education for exempt status addressed each of the required criteria, including policies on academic freedom, honesty and integrity, and dispute resolution. TWU was granted exempt status by the B.C. Ministry of Advanced Education in 2004, the inaugural year for this institutional status in the province of B.C.
- By charter, TWU's *raison d'être* is to provide university education with an underlying philosophy and viewpoint that is Christian. As such, it is part of the university's academic freedom "to enable members of a minority community to self-select in accordance with their distinct values and shared vision"¹⁰.
- Statements of faith are particular interpretations of certain elements of a Christian worldview, and as such, it's appropriate for a Christian university to employ some version of a faith statement in order to identify and select individuals who can legitimately contribute to a vibrant community of Christian scholars. Codes of conduct provide a means for a Christian university to clearly communicate expectations about how members of the community are expected to conduct themselves. All faculty are required to sign the university's statement of faith and community covenant during the hiring process. Students are only required to sign the community covenant during the

⁹ See, BC Ministry of Advanced Education, "Exempt Status Criteria and Guidelines," https://www2.gov.bc.ca/assets/gov/education/post-secondary-education/institution-resources-administration/degree-authorization/exempt_status.pdf.

¹⁰ <http://www.slw.ca/2014/01/24/let-twu-have-its-law-school/>.

admission process. The university has policies and procedures in place to address any alleged violations related to the statement of faith and community covenant.

Factors that are relevant to the ongoing discussion of academic freedom at TWU include:

- Faculty and administration at TWU are currently evaluating existing organizational structures that relate to the faculty work environment. Policies and procedures related to hiring and dispute resolution have been improved through this process.
- The TWU statement of faith and community covenant are documents for which the Board of Governors have ultimate responsibility. In the past 10 years, both of these documents have been revised.
- The community covenant encourages the cultivation of Christian virtues such as love, joy, peace, patience, kindness, goodness, compassion, humility, mercy and justice; living lives characterized by honest, civility and integrity; treatment of all persons with respect and dignity, and upholding their God-given worth from conception to death. The wholesome environment that the community covenant has helped establish is immediately evident to many visitors to the TWU campus.
- The 2005 *Civil Marriage Act* includes a guarantee that the Act does not affect the freedom of members of religious groups to hold and declare their religious beliefs regarding marriage, therein laying the foundation for the potential for disparate views on same-sex marriage in Canadian society. Given media attention on this topic in relation to TWU's Law School application, the 2013-14 TWU Faith and Reason Task Force hosted a series of forums on the topic of human sexuality and gender identity. This conversation is an example of the important role that a Christian university can play in wrestling with a complex subject by applying academic principles within the context of a Christian perspective.
- As part of its Equity/Diversity/Inclusivity plan, TWU recently held forums with students who identify as Disabilities/Exceptionalities, Indigenous, International, LGBTQ+, and Visible Minorities to hear their experiences in classes and on campus. The issue of inclusivity in the classroom is closely related with the academic freedom of the student.
- TWU recognizes that the personal commitments of individuals to the Christian faith, both in terms of orthodoxy and orthopraxy, cannot be reduced to simplistic statements, particularly in a Christian community that is multidenominational. Nonetheless, the statement of faith and community covenant serve as standards to maintain the particular Christian identity of TWU through conversation with faculty who are interested in joining the TWU community. Should a TWU faculty member determine that s/he no longer subscribes to the statement of faith and/or the community covenant, it follows that s/he is no longer able to participate in the distinct community of Christian scholars that is being cultivated by TWU. In a case that the administration

believes that a faculty member no longer subscribes to the statements, contrary to the view of the faculty member, TWU is committed to a thorough, transparent, and faculty-inclusive process to allow the principles of natural justice to resolve the matter.

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