UNIVERSITY FREEDOM IN TURKEY

Semiyha DOLAŞIR PhD.
Ankara University
School of Physical Education and Sport
06100 Tandoğan ANKARA
Tel: +90 312 221 16 01/146
Fax: +90 312 212 29 86
sedolasir@hotmail.com
sedolasir@gmail.com
UNIVERSITY FREEDOM IN TURKEY

Abstract

Freedom means the right of the universities to do their scientific activities and to regulate and do the higher education through their organs. The three feet that make up the university freedom are scientific freedom, administrative freedom and financial freedom. Scientific freedom is realized by the freedom of the faculty and teaching staff and regulation freedom of university organs. Administrative freedom, is carried out by administrating the universities by the organs and the individuals elected by themselves. Financial freedom, on the other hand, is the authority of the university to spend money. In this study, university freedom in Turkey was evaluated in the lights of related laws, the time periods before and after Higher Education Council (HEC) are being examined from the law perspective.

Key Words: Scientific freedom, administrative freedom, financial freedom
INTRODUCTION

The universities have had their positions as local service units since the middle ages. During this time period, scientific investigation and teaching activities and the freedom of those who do these activities have gone through evolution, continuously. Even though the idea of “whoever owns the country owns the university” has been in possession during autocrat regimes in the history, these temporary periods have not been able to step the freedom of universities from being developed.

Universities must have a free structure in order to do their public duties such as scientific, technical and cultural. The meaning of university freedom is that the universities have the authority of doing the scientific activities through their organs and can regulate the higher education freely and do it.

The university which should be free from the standpoint of its structure, duties, organs, programs and activities must have three basic characteristics for freedom. The university looks like a table with three feet. The absence of on foot cause the collapse of this table. Scientific freedom, administrative freedom and financial freedom make up the feet of university freedom.

UNIVERSITY FREEDOM

“Freedom” means the higher education institutions’ taking decisions about inner functions, financial functions and administration and developing politics in education, research in outside activities and other related activities (Özalp, 2002).
All higher education institutions try to make sure individuals’ economics, social and basically political rights are realized and science and technology do not harm and they are not abused.

These institutions direct their interests to the modern problems the society has. With this goal these institutions’ programs and activities respond to the needs of society as a whole. All higher education institutions, similar institutions and the individuals in them should act together when they are under pressure. This act should be materialistic and emotional and should include education employment opportunities. All higher education institutions should try to prevent scientific and technological dependency and provide that all academic units have equal position in gaining knowledge and using them. These institutions should encourage and international academic cooperation which overcomes local, politics or such handicappes (Özal, 2002).

To benefit from the academic freedom as needed and obey the above mentioned responsibilities, the higher education institutions should have high level freedom. States are responsible for not to interfere with the freedom of higher education institutions and to prevent the higher powers of the society from interfering to these institutions.

All the administrative organs of the higher education are elected freely and include responsibilities from different parts of academicians. Freedom should include the decisions related to determination of politics on education, research, outside activities, utilizing the research and other activities (Human Rights Universal Announcement Meeting)
University freedom includes scientific, administrative and financial freedom and cannot be thought separately.

a. Scientific Freedom: University scientific freedom is necessary for faculty members and assistants’ freedom and on the other side regulating the scientific studies of the university organs. This is very important for the development of university creativity. A university that is far away from creativity noting more than a school no matter what its name is.

b. Administrative Freedom: First of all, it requires that the universities and faculties have public personality. Besides, administrative freedom expresses that the universities be administered by organs elected by themselves.

c. Financial Freedom: It includes the authority of the university public responsibility to be able to spend money by the units unique to itself.

As a result of these characteristics, the university profile which is aimed to reach is as follows:

1. It should raise people who have a wide thought network, ask for their rights and know how to project the rights they gained.

2. It should raise citizen who seeks the truth with free thought and does good to the society in this direction.

3. It should be on the front of the society and should carry the modernity.

4. It is a free organization whose the scientists work freely, are not afraid of criticism and can criticise freely, are able to express their thoughts freely, dependent to the democratic election criteria, the organs are not formed by the public authority.

5. University is a non-profit organization.
The main goal in higher education is to raise individuals who have the ability to think independently and creatively, who can question, researcher, who has gained useful knowledge for himself/herself, society and humanity and who are intelligent. Such teaching can only be carried out in the higher education institutions that investigate, produces science, contribute to the development of technology, support continuously doing research and producing science, has academic, administrative and financial freedom. In addition to teaching functions, higher educations institutions, produce solutions about important national and universal issues. The request is not necessary for these functions. Moreover, it is expected from the higher education institutions that they describe such issues (TÜBA, 1996).

The meaning of the university freedom is the right of a society or organization to administer itself. It is the security of the universitiy that state provides against the ideology and the aims of political power.

International Universities Association determined the freedom criteria at the meeting hold in 1965 in Tokyo:

1. University should do all elections and appointments itself.
2. The selection of the students should be done by the universities.
3. The university should be able to prepare the educational programs itself.
4. The university should be able to regulate the research programmes itself.
5. The university should be able to utilize its budget as it wishes in the borders of its authority.

The idea of “free and democratic university” can be realized with a “self administration” that is requires the affective and active participation of teaching staff, student,
researcher, personnel and all of the academic society members. This understanding should be realized inside of the units and all the administrators should be elected with the participation of the whole university components with democratic ways (TUBA, 1996).

To develop politics which will support scientific educations with universal principle and methods, free thought, developing and supporting national and international academic cooperation, should be the priorities of the university administrators.

**EVALUATING UNIVERSITY FREEDOM IN TURKEY IN THE FRAME OF RELATED LAWS**

During the republic period, Darülfünun was given a great importance with a paper publisher in April 1, 1925 it was given public representation and administration with joined budget rights and this organisation was separated from the NEM from scientific point of view. With this law, university freedom has been realized the first time in our history. However, despite this right and freedom given to Darülfünun with 1925 regulation this institution was not able to realize the development and progress and 1933 a regulation was done with law 2252 in order to get rid of the problems arose because of the negative position this institution was taken for revolutions (MEB, 1998).

**1933 Reform and Law Number 2252**

İstanbul Darülfünun was closed and İstanbul University was established with law number 2252 in order to set the modern university the Republic brought. In this law;
Number 2 “National Education Ministry, starting August 1, 1933 was given the right to establish a new institution named İstanbul University…”

With number 2 İstanbul University was responsible to NEM and academic and administrative freedom was finished which was given in 1925.

Number 5 “For the period August 1, 1933 and May 31, 1934 of the university which will be established according to law number 2, the appointment of faculty members, administration and foreign experts belongs to Ministry of National Education…”

With the law number 5, the university has been set free from the authority of appointing faculty members, administration and foreign experts for itself. In the frame of same law, the president of the president is appointed by the suggestion of the NEM and approval of the President of the country. One of the freedom criteria is doing all the appointments and elections itself related to the university. Those have been prevented with this law.

* The information in this section has been put together from the publication of National Education Ministry named “Higher Education in the 75. year of Republic” and related laws (2547) and 1961 and 1982 Constitution

1946 Reform and University Law Number 4936

In the criticism after 1933 reform, it has been stated that İstanbul university did very important progresses, in the mean time could not do many important duties. Functioning of the university according to the principles of democratic society has been forseen as responsibility
for the society in order for the democracy to set roots. To put it different, university “should be free in all functions” and should provide necessary environment for the faculty members and staff to work in certain rules and with certain rights. For this reason, in order to speed up the process of being democratic, the universities law number 4936 has been regulated. In this law:

Law number 1: “Universities are higher science, research and teaching units formed of faculties, institutions, school and scientific organisations with freedom and public representation. In the general freedom and public representation of each university, the faculties that form the university has science and administration freedom and public representation according to this law”.

With this law, the scientific and administrative freedom has been given to the universities that was taken away with 1933 reform.

Law number 12 : “The president of the university is selected by the faculty professors jury for two years and he/she should be from a different faculty for each election period”.

After election of the candidate proposed by NEM in 1933 reform, the university has had a great process by electing the president of the university by itself. With general dimensions of law number 4936:

- Universities have reached scientific and administrative freedom,
- Universities have been given to the control of the administrators elected by themselves,
- The duties of the universities have been determined in details,
- Educating the teaching staff with certain standards has been provided,
- Doing teaching activities’ productive and according to the country realities has been provided.
1946 universities law has formed a university structure with functions with democratic rules and does not allow outer interference. 1960 revolution has harmed university freedom but with 1961 constitution, university freedom has been guaranteed again. As result, “university” concept, has been found a place first time in 1961 constitution. Constitution’s number 120 related to universities states: “Universities are public representatives with freedom. They are administered by the organs which are elected by the faculty members and university organs, faculty members and assistants can not be taken away by the authorities outside of the universities”. However, with the student problems started in 1968 was taken as the reason for March 12, 1971 military act and constitution number 120 has been changed to bring the statement that the government can take measurements to prevent student problems. In this frame, it was thought that the university law should be changed and June 20, 1978 the universities law was formed.

Universities Law Number 1750

In the frame of this law, the university has been described as follows:

Number 2: “Universities are higher science, research, teaching and publication units with public representation and freedom which are made out of faculty, department, school, institute and such units. Each university is a whole with the the units and organisations belong to it. A university’s faculties have the public representation just like the university as the units of it, whether other organisations that are part of the university should have or not public representation is the decision of university senate”.
With this description, administrative freedom is narrowed and it is stated that the faculties make the university has public representation.

Number 4: “Higher Education Council, in the concept of higher education wholeness is the council which has the duty of doing necessary research and evaluation to direct the basic principle and politics of state development plan and the needs of modern science and technology provide the coordination among higher education institutions by absorbing the practices giving suggestions to the higher positions”.

Number 7: “University supervision committee Works to provide the supervision of the state or the universities as it reports to the prime ministry. The committee is chaired by the prime minister and the members are the ministry of education, ministry of justice, three members chosen out of faculty members who worked as the presidents of the universities, chairman of the state planning organisation are member chosen for three years out of those who worked as deans at the National Security Council.

According to number 43 of the same law, opening of a faculty or school at university is realized with the suggestion of the university senate and approval of the Ministry of National Education. The foundation of a central structure was done with these rules. Hence, the scientific supervision of the faculty members was done. In other words, narrowing of scientific freedom was added to the administrative freedom narrowed by certain conditions.

In summary, with the 1973 reform, administrative freedom was narrowed at certain condition with Higher Education Council that was established with responsibility of
Unversity Freedom In Turkey 12

administrating university and Supervision Council to supervise the university scientific freedom was shadowed by providing the scientific supervision of faculty members.

1981 Reform and Higher Education Law Number 2547 Higher Education

Higher Education Council was established in November 4, 1981 in order to determine the goals and principles of higher education and to regulate the Essentials as a whole related to organisation, function, duty, authority and responsibility of higher education; education-teaching, research, publishing, teaching staff, students and personnel. The structure is as follows:

1. Among those who worked as rector and faculty member, 7 members selected by the president,
2. 7 members selected by the Council of Minister among those work at higher positions and retired,
3. 1 member selected by General Staff,
4. 1 member selected by minister of National Education,
5. 7 members selected by University Council among those professors and faculty members who are not council member.

Higher Education Council is made up of a total of 24 members.

Duties

1. Determining the borders of university development, summer school, night and day teaching and so on.
2. Making decisions to open or close faculty, institute, school at university and to give them to the Minister of National Education.

3. Giving the budgets to the National Education Minister that are prepared by the universities and higher units after supervising and approving them.

4. Examining the student number suggestions the universities will accept to their programs and to determine the Essentials related to students selection and acceptance.

5. Investigating the discipline of rectors and deciding, firing those who behave against the regulations or transferring them to another unit.

Other Organs

Higher Education Supervision Committee: The committee that is part of HEC and supervises the universities, the units that are parts of the universities and their functions in the name of HEC. The president of the Higher Education Supervision Committee is appointed by the president of HEC among the members of HEC.

University Council: It is an academic organ. It provides the coordination among universities. This committee is necessary but it should be formed with the democratic election done inside of the university.

University Organs

Rector: He/she is appointed by the president of the country among those candidates who are determined by the faculty members who has the of professors.
Dean: The dean who is representative of the faculty and its units is selected and appointed by HEC for three years among three professors from inside or outside of the university proposed by the rector of the university.

Other organs of the universities are senate, university board of directors, faculty council, faculty board of administrators.

A total of 83 changes have been made out of 68 number of Higher Education Law 2547 and these changes have been destroyed many functions of the units related to the higher education rather than adding positive points to the universities. Academic freedom of the faculties and universities have been taken out and these units have been transported to HEC with 1981 law. Universities have been given under to control of political authorities with HEC which is under the control of political authorities.

With this law, all higher education institutions are regulates as a whole. Administrating and supervising of this whole is given to HEC. The system put aside by the regulations of HEC is authoritative, central, interfering and supervising. Even though HEC is formed and described as a planning and coordinating organ, it has been background of the university system (http://odtuedu.com.tr).

With the functioning of HEC, university and schools have been put in a vertical structure system. According to this, system forming to academic organs of universities, senate and faculty council, is an appointment chain. Because of this reason, it is impossible to mention the administrative freedom at universities.
Explaining the thoughts and bringing suggestions of academicians is realized only in an narrow frame. Accreditation and promotion of academicians are done according to the rules put aside by HEC and this gives the Council chance to promote the ones it wishes or to eliminate those it does not wish. This system holds the rectors from behaving free and objective. Again, determining the undergraduate programs which are under the control of universities in developed countries is done by HEC in our system an one type of teaching is pushed. Forming education programs of the faculties and departments related to their specialised research areas is being prevented. Doing research and explaining thoughts especially in areas related to social sciences, is regulated by strict rules. As a result of this, the producing science side of the universities is being destroyed and the units are being transported to the vocational schools.

**EVALUATION OF THE PERIODS BEFORE AND AFTER HEC FROM THE PERSPECTIVE OF LAW**

When we look into constitutions 1961 and 1982, we see these differences (MEB, 1998):

1. University freedom is the most important, while the universities are administered by the organs formed by the authorized faculty members elected by themselves according to 1961 constitution law number 120/2, in 1982 constitution number 130, universities’ academic freedom is taken away and from one hand administration is provided (Number 130 – Universities that have academic freedom and have public representation are established by state with law to educate people suitable for the needs of the country and nation according to the principles of modern education-teaching; to do
education-teaching, scientific research, publication and advising related to college teaching. This duty will also be realized by HEC. HEC is not with a free structure therefore the universities can not be expected, either.

2. 1961 constitution number 120/4 gives the faculty members and teaching staff right to freely do research and publish but this right is restricted with 1982 constitution number 130.

3. The political rights that were given to teaching staff and faculty with 1961 constitution number 120/6 are taken back with HEC law 2547 number 59.

4. Another difference between 1961 and 1982 constitutions is related to the consistency of academic life. Law 2547 threatens the teaching staff and faculty in a covered way. According to this law, if a faculty and teaching staff is against the goals and general principles of higher education, he/she can be transported to another higher education institution to be tried out or to be fired with the suggestion of rector or according to the normal procedure. I wonder if which academician will feel secure and in piece with such threat.

5. Another difference is with regulation 2547 education with tuition is set through double education.

6. Also, while in 1961 constitution there is no regulation related to private universities. 1982 foresees the establishment of private universities. Private universities will give their annual activity reports to HEC and they will be evaluated once a year.
The Problems from the Point of Scientific (Academic) Freedom

The meaning of academic freedom is, to search the knowledge, examining, discussion, to produce, create, teach, explain or to write and gain, develop and progress of academicians. Academic freedom is a pre-condition for the universities and other higher education institutions to do education, research, administration and service. All members of the academic society have the right to do their jobs without any discrimination and any pressure put by the state or other unit on them (Yıldırım, 2002).

Scientific research and publication freedom make up the basic od scientific freedom. The freedom of scientific research and publication freedom of individuals are regulated by number 27 of the constitution. However, scientific freedom of universities is secured by number 130 of the constitution.

“Number 130 - Universities that have academic freedom and have public representation are established by state with law to educate people suitable for the needs of the country and nation according to the principles of modern education-teaching; to do education-teaching, scientific research, publication and advising related to college teaching. This duty will also be realized by HEC. HEC is not with a free structure therefore the universities can not be expected, either”.

Individual has the right to do scientific research, teaching and publication no only as faculty member or academic public representative bu as an individual. However, university of faculties should already have the freedom of art, to do scientific research and publish the results of these research results as an academic public representative or a part of it. According
to the constitution court, scientific freedom requires a free working environment and
administration from the establishment of university to its functioning (Yıldırım, 2002).

The content of the universities’ scientific freedom includes: faculty members and
teaching staff freely doing research, freely determination of teaching and testing programs,
faculties’ numbers and application by faculties, realization of scientific supervision according
to the principle of self-supervision and oto-control.

A university administration similar to the administration stages at state would prevent
the thought production, free thought and free work. HEC law number 2547 organisation type
comes from a central understanding. Even though the above mentioned law number 3d states
that the universities have scientific freedom, other parts of the law has opposite statements.
For example, establishing departments research center, connecting and closing them is the
decision of Higher Education Council (Law 2547, Number 7/d-2).

Scientific freedom of the universities on the other hand, requires that establishing
department, research center and such, dosing, connecting them should be decided by the
university.

Problems Lived from the Angle of Administrative Freedom

The meaning of administrative freedom should be free for the administrative decisions.
Administrative freedom is a term used to express the ağa beylîty of each unit to take applyable
decisions and has the right to apply them. The administrative freedom of universities means,
the administering and supervision of these units by the organs formed by democratic ways and
the faculty members and teaching staff of these organs not being taken away by outside of university authorities what so ever (Yıldırım, 2002).

However, the point should not be forgotten is that the administrative freedom is given to the faculty members and organs of the universities but not to the buildings. Before September 12, university freedom was understood as the freedom inside of the university buildings and campus, the administrative freedom of universities is taken away as a reaction. Instead of this, the supervision and control of the state over the universities is reestablished strictly. However, the authority of the state to supervise and control the universities should not be understood as administering and controlling the scientific studies of the universities.

1982 constitution and HEC law has taken away the administrative freedom of universities. Because, universities and the related units’ decision and application organs are either appointed or is a mixture of appointment and election. Already, both the relate numbers of constitution to the universities (number 130 and 131) and Number 2547 HEC law never mention administrative freedom.

There are many drawbacks for administrative freedom not being at the universities and related units : Decision and application organs feel dependent to those who appoint them because they come to duty by appointment or partly election and appointment.

Secondly, inside of the unit administrative supervision mechanisms can not function effectively. Thirdly, rather than the necessities of the scientific research and application, decisions in the direction of central administration’s politics are taken and applied.
EVALUATION

In years of 2000’s, in order to take our universities to west standards and wanted levels, we need to first get rid of our mistakes and missing points. Unless we do this, the projects towards the future will have no meaning.

1982 constitution uses the concept of freedom as only “scientific freedom” at state universities. However, it is hard to mention from administrative and financial freedom at the universities where the faculty members are determined according to the private criteria by the private administrators, rector, deans, general secretary and personnel are determined by the board of regents or fired by them and the whole financial process is done by the private accountants. Today, it is hard to state that there is a real academic freedom because of HEC (Demirtaş, 1999).

Starting 1980 s, until today the “academic freedom” and “university freedom” has been destroyed. Universities have been tried to be representatives of official ideology. In general, as in the fields related to “Human”, the funds related to science and university have been cut back. A group of the academicians have become the educator, researcher or advisor of the private universities or private organizations. They have started to give less time and effort to public universities. Universities have gone away from being a “think tank” which everybody can say what he or she thinks freely and they started feeling pressure on them physically and intellectually.

The president of our country has ststed that the universities that were established for the political reason are lacking quality, the HEC is not performing what it should and he also
stated that he miss the university with freedom and modern at Ankara University semester being ceremony, he stated that giving authority to HEC to appoint the rectors and faculty members have destroyed academic freedom and the understanding of democracy and the universities established for political reasons are “educating” jobless youngsters.

The president has stated that Modern Turkiye will be realised with modern and free university. University administrators need to be individuals with strong personality and strong scientific background. Universities should be good example to the students with their administrative structure and democratic administration. The administrators of our higher education institutions should come to duty by election and the universities should have administrative freedom is addition to scientific freedom and this is the necessity of democracy. The president also stated that the faculty members sholud elect their administrators and is a tradional democracy and freedom of the university the HEC ‘s duty should be limited with coordination and planning.
REFERENCES


2. İnsan Hakları Evrensel Bildirisi (6-10 September). Ülkemizde üniversite özerkliği ile ilgili konuların değerlendirilmesi. Lima


