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## FREEDOM OF RESEARCH AND PUBLIC SECURITY

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**Annotation.** Academic freedom is the constitutional right to freely decide whether to engage in science and research, including the right to freely choose the sphere of scientific research and methods of investigating particular subjects, to form scientific world-view. One of the main principles is the ability to generate new knowledge through research and inquiry without any restrictions. Scholars must be free to choose specific research area and this may help ensure that students get the most current knowledge. The article analyses restrictions that may be imposed, their justification and limitations on the publication of research results and raises the question what should be the balance between the openness of scientific research and the needs of national security? Freedom of research should be restricted when the benefit is unlikely to the human kind, or when the significant harm is highly likely on the influence of dangerous knowledge or a dangerous way of gaining knowledge; also the misuse of biology and medicine which may lead to acts endangering human dignity; also terrorism which may highly impact public security. In all other cases, research is to be regarded as a public good necessary for creation of knowledge and a better and healthier society and must be defended and protected.

**Keywords:** academic freedom, freedom of research and publication, public security.

### INTRODUCTION

The professors provide the institution's intellectual capital and supply its dynamic force to conduct research, analyze information, create knowledge, and educate future leaders. To perform these tasks—teaching, inducing critical thinking, and inquiry—the faculty requires academic freedom as a necessary condition to do its job.<sup>1</sup>

The constitutional emphasis on higher education universities expresses the idea that academic freedom protects not research as such, but rather the disinterested scholarship. “Without scientific progress no amount of achievement in other directions can insure our health, prosperity, and security as a nation in the modern world.”<sup>2</sup>

The rights associated with academic freedom are that scientific research must be conducted without unreasonable interference or restriction by law, institutions, or public pressure. However it is not an absolute right. Academic freedom does not entitle a scholar to pursue experiments on non-consenting human subjects or falsify results.

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<sup>1</sup> NDU faculty handbook [interactive]. 2008 [accessed 28-10-2012].  
<<http://www.ndu.edu/aa/policies/Academic%20Freedom%20NDU%20policy--Nov%2008.pdf>>.

<sup>2</sup> Post, R.C. *Democracy, expertise, and academic freedom: a First Amendment jurisprudence for the modern state*. New Haven and London: Yale university press, 2012.

As noted in the ruling of the Constitutional Court, no scientific views may be thrust upon a person, he may not be forced to choose a certain sphere of scientific research, he may not be forced to perform certain scientific research or be prohibited from performing certain scientific research, and to publish or not to publish results of the performed scientific research; this is a matter of the discretion of the person and his free choice”<sup>3</sup>.

On the other hand, the interests of higher education institutions and those of society must be adjusted; autonomy of universities must be in conformity with their duty to observe the Constitution and laws with responsibility and accountability to society.

The restrictions and limitations that may be imposed, their justification on the scientific research and publication raise the question what should be the balance between the openness of scientific research and the needs of public security? Freedom of research can and should be restricted when it is highly likely to yield significant harm or dangerous knowledge. Science, genetic engineering, nuclear weapons, nuclear power and other things bring some fear and distrust and also raise the ethical issues. The terrorist attacks also raise an issue regarding the balance between the need for national security and the pursuit of academic freedom. Academic freedom also deals with threat from the growth in the use of new information and communication technologies to provide open and distance learning.

The subject of this paper is freedom of research and publication as one of the main categories of academic freedom and possibility to limit or impose restrictions on the ground of public security.

The aim of the paper is to make analysis of the restrictions and limitations that may be imposed and their justification on the scientific research and publication in order to ensure public security.

The methodology in the research. The author of this paper used analytical and comparative methods to review the meaning of freedom of research and publication, to evaluate some events that may have impact on this freedom, to analyse their influence on restrictions and limitations on the freedom of research.

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<sup>3</sup> The Constitutional Court of the Republic of Lithuania ruling on the compliance of the provisions of the Republic of Lithuania Law on science and studies (wording of 30 April 2009) with the Constitution of the Republic of Lithuania. 22 December 2011, *Official Gazette*, 2011, No. 160-7591.

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## FREEDOM OF RESEARCH AND PUBLICATION LEGAL REGULATION

Higher education as a public good which helps to ensure the social, economic, cultural progress therefore requires an appropriate legal framework. Higher education is important as a value that contributes to the academic self-expression and the development of the knowledge society.

Institutions of higher education are conducted for the common good and not to further the interest of either the individual professor or the institutions as a whole. The common good depends upon the free search for truth and its free exposition.<sup>4</sup>

Science and studies mission is to help ensure the country's social, cultural and economic prosperity, to be a fulfilling life support and encouragement for each Lithuanian citizen and satisfy the natural thirst for knowledge. Lithuanian science and studies policy undertakes the quality of higher education, guarantees every citizens equal access to higher education and conditions for the best of them to perform a scholarly work, to seek the scientific and creative development; the said policy manages the compliance of science and studies system with society and economic needs, supports its openness and integration into the international research and higher education area. Sustainable education system is the foundation for the development of the knowledge society, the strengthening of the knowledge-based economy and the sustainable development of the country, dynamic and competitive life of the national economy, social and economic well-being; such a system fosters a creative, well-educated, dignified, ethically responsible, independent and entrepreneurial personality, upholds the civilizational Lithuanian identity, supports, develops and creates national and global cultural traditions.<sup>5</sup>

Recognized system of the higher education values may help to understand the need for legal regulation, which would allow ensuring the science and studies mission. Researchers unanimously admit that higher education institutions have these traditions - autonomy, academic freedom, scientific and study unity, democracy - which are the original idea of the essence of higher education and must be protected despite the change in modern society and the modern higher education phenomenon.

Academic freedom is conventionally understood as having four distinct dimensions: freedom of research and publication, freedom in the classroom, freedom of intramural speech,

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<sup>4</sup> NDU faculty handbook [interactive]. 2008 [accessed 28-10-2012].  
<<http://www.ndu.edu/aa/policies/Academic%20Freedom%20NDU%20policy--Nov%2008.pdf>>.

<sup>5</sup> Republic of Lithuania Law on Higher Education and Research. 30 April 2009, No. XI-242. *Official Gazette*, No. 52-2140, article 2.

and freedom of extramural speech.<sup>6</sup> The Scholars at Risk (SAR) Network gives a definition of academic freedom: the right of scholars, individually and collectively, to teach and discuss, to carry out research and to disseminate and publish the results thereof, to express freely their opinion about the institution or system in which they work, to be free from institutional censorship, and to participate in professional or representative academic bodies without fear, persecution, harassment, intimidation and violence, without discrimination and without constriction by prescribed doctrine.<sup>7</sup>

The Constitution of the Republic of Lithuania provides that “culture, science and research, and teaching shall be free”<sup>8</sup>. According to the Constitutional Court of the Republic of Lithuania “the constitutional freedom of science and research also inter alia means that every person has the right to freely decide by himself whether to engage in science and research, including the right to freely choose the sphere of scientific research and methods of investigating particular subjects, to form his scientific world-view”<sup>9</sup> and also “a person may not be hindered from seeking, receiving and imparting information and ideas”<sup>10</sup>.

This paper mainly focuses on the freedom of research and publication. Freedom of research and publication follows most directly from the fundamental mission of the university to create new knowledge.<sup>11</sup> The main idea is that scholars will not create new knowledge unless they are free to inquire and share their results with the general public.

Freedom in research and training as one of the fundamental principles is declared in the Magna Charta Universitatum. It states inter alia that freedom in research and training is the fundamental principle of university life; governments and universities must ensure respect for this fundamental requirement; rejecting intolerance and always open to dialogue, a university

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<sup>6</sup> Finkin M.W., Post R.C. For the common good: principles of American academic freedom. New Haven and London: Yale university press, 2009.

<sup>7</sup> Heisler, M.O. Academic Freedom and the Freedom of Academics: Towards a Transnational Civil Society Move [interactive]. 2007 [accessed 28-10-2012] <<http://onlinelibrary.wiley.com/doi/10.1111/j.1528-3585.2007.00301.x/full>>.

<sup>8</sup> Constitution of the Republic of Lithuania. *Official Gazette*, 1992, No. 33-1014, article 42.

<sup>9</sup> The Constitutional Court of the Republic of Lithuania ruling on the compliance of the provisions of the Republic of Lithuania Law on science and studies (wording of 30 April 2009) with the Constitution of the Republic of Lithuania. 22 December 2011, *Official Gazette*, 2011, No. 160-7591.

<sup>10</sup> *Ibid.* As noted in the ruling of the Constitutional Court of the Republic of Lithuania, paragraph 1 of Article 42 of the Constitution is related to Paragraphs 1 and 2 of Article 25 of the Constitution. In its ruling of 5 May 2007, the Constitutional Court held that the constitutional freedom of science and research is inseparable from the freedom of having one’s own convictions and expressing them, which is entrenched in Article 25 of the Constitution and which implies among other things the freedom of a person to form his own convictions and to choose values of world-view, and from freedom of information consolidated in the same article of the Constitution, which means that a person may not be hindered from seeking, receiving and imparting information and ideas.

<sup>11</sup> Finkin M.W., Post R.C. For the common good: principles of American academic freedom. New Haven and London: Yale university press, 2009.

is an ideal meeting-ground for teachers capable of imparting their knowledge and well equipped to develop it by research and innovation and for students entitled, able and willing to enrich their minds with that knowledge.<sup>12</sup>

It has to be stated that it is unacceptable to believe that the scholars possess full freedom to violate their professional norms or even the laws. The principle imposes duties on academics to respect the reciprocal rights of their students, the Government and the society. Limits and restrictions on research and publication sometimes can be imposed to protect governmental interests, especially in the name of national security. The question how far does the freedom of research and publication extend should be answered. Limits and restrictions on research and publication will be discussed below.

### **INFLUENCE OF PUBLIC SECURITY ON FREEDOM OF RESEARCH**

The Constitutional Court recognizes “freedom to choose methods of and access to research (artistic) and pedagogical activities, which is in conformity with the accepted principles of ethics, protection against restrictions and sanctions for making public the results of one’s research, and for the manifestation of one’s beliefs, with the exception of the cases when the published information is a state or official secret and/or is in violation of laws of the Republic of Lithuania”<sup>13</sup>.

The Constitutional Court states that scientific freedom is not an absolute freedom and that there can be certain exceptions and restrictions: scientific freedom must be in conformity with laws and the principles of ethics, and restrictions can be justified on the grounds of state or official secret. Some information may be defined as important to the public security and well-being of the nation, and its handling may be limited by specific law. According to the Republic of Lithuania Law on State Secrets and Official Secrets state secrets are classified political, military, intelligence, counterintelligence, law enforcement, scientific and technical information, the loss or unauthorized disclosure of which may result in a threat to the sovereignty of the Republic of Lithuania, territorial integrity, defense power and may damage state interests, cause life-threatening.<sup>14</sup> State secrets may consist of detailed information about new technologies, research, testing and results with a particular significance to state

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<sup>12</sup> *Magna Charta Universitatum* [interactive] Bologna, 1988 [accessed 30-10-12]  
< [http://www.magna-charta.org/library/userfiles/file/mc\\_english.pdf](http://www.magna-charta.org/library/userfiles/file/mc_english.pdf) >.

<sup>13</sup> The Constitutional Court of the Republic of Lithuania ruling on the compliance of the provisions of the Republic of Lithuania Law on science and studies (wording of 30 April 2009) with the Constitution of the Republic of Lithuania. 22 December 2011, *Official Gazette*, 2011, No. 160-7591.

<sup>14</sup> Republic of Lithuania Law on State Secrets and Official Secrets. 25 November 1999, No. VIII-1443. *Official Gazette*, No. 105-3019, article 2.

interests.<sup>15</sup> For example, restrictions of the scientific research and publication could be justified on such criteria as dangerous knowledge or a dangerous way of gaining knowledge; also the misuse of biology and medicine which may lead to acts endangering human dignity; performance of classified research in support of the military or other projects which are pivotal to national security; or even terrorist attacks. Under such circumstances government not infrequently seeks to protect governmental and public interests, especially in the name of public security, regarding what can be researched, how the research is carried out, who is taking part in the research and who is informed with the outcome.

The free exchange of scientific data - for example, a component of a deadly toxin – may help to equip a terrorist group with a means of mass destruction. But that same openness may better equip researchers to produce the means of preempting or neutralizing that very threat.<sup>16</sup> Toxins vary greatly in their severity, ranging from usually minor and acute (as in a bee sting) to almost immediately deadly (as in botulinum toxin).<sup>17</sup> Secrecy of scientific research can impede the pace of scientific discovery for good as well as for bad.<sup>18</sup> It is important to understand that the chemistry that advances human life can also be used to destroy it or that the biology that can be used as a treatment for a disease can also be used for homicide.

Scientific research in the field of biology and medicine shall be carried out freely, subject to the legal provisions ensuring the protection of the human being.<sup>19</sup> However research on a person may be undertaken only if certain conditions are met. Some researches may be at all prohibited, for example, the creation of human embryos for research purposes is prohibited.

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<sup>15</sup> *Ibid*, article 7.

<sup>16</sup> Finkin M.W., Post R.C. For the common good: principles of American academic freedom. New Haven and London: Yale university press, 2009.

<sup>17</sup> [interactive]. [accessed 28-10-2012] <<http://en.wikipedia.org/wiki/Toxin>>.

<sup>18</sup> Finkin M.W., Post R.C. For the common good: principles of American academic freedom. New Haven and London: Yale university press, 2009. Experience of the People's Republic of China, whose suppression of the full extent of the outbreak of severe acute respiratory syndrome seriously aggravated a threat to world health, is a notice to the assumption that secrecy always abets security.

<sup>19</sup> Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, article 15. *Official Gazette*, 2002, No. 97-4258. The convention also states that research on a person may only be undertaken if all the following conditions are met: there is no alternative of comparable effectiveness to research on humans; the risks which may be incurred by that person are not disproportionate to the potential benefits of the research; the research project has been approved by the competent body; the persons undergoing research have been informed of their rights and the safeguards prescribed by law for their protection; the necessary consent has been given expressly, specifically and is documented.

Any intervention seeking to create a human being genetically identical to another human being, whether living or dead, is prohibited.<sup>20</sup> The aim of such restriction is to protect the dignity and identity of all human beings because such a biomedical practice might imply serious medical, psychological and social difficulties for all individuals involved. The instrumentalisation of human beings through the deliberate creation of genetically identical human beings is contrary to human dignity and thus constitutes a misuse of biology and medicine. But not all countries prohibit human cloning. There are currently no federal laws in the United States which ban cloning completely. Thirteen American states ban reproductive cloning and three states prohibit use of public funds for such activities. That of course does not prevent research from occurring in private institutions (such as universities) that have both private and federal funding.

Science, genetic engineering, nuclear weapons, nuclear power and other things bring some fear and distrust and also raise the ethical issues. However from the other point of view fear and distrust often comes with the hope that science will provide medicine necessary to all major diseases or ways to prevent them.

There are occasions where the freedom to carry out scientific research should have been constrained for ethical reasons<sup>21</sup>. However, the enormous benefits that science can bring (such as to cure people suffering from HIV/AIDS) and a basic moral obligation to support science on grounds of fairness and to help other people in need there should also be recognised. When carrying out research using human subjects, the obligation to support research against the duty to protect vulnerable research subjects must be weighed.<sup>22</sup>

For example, Law on biomedical research ethics<sup>23</sup> states that biomedical research must be carried out in accordance with the principle - human interest outweighs the public and scientific interest. The rights, safety and well-being of the clinical trial subjects shall prevail over the interests of science and society.<sup>24</sup>

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<sup>20</sup> Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human being with Regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human beings. *Official Gazette*, 2002, No. 97-4259, article 1.

<sup>21</sup> The Tuskegee Study of Untreated Syphilis in which 412 poor African/American men were deliberately left untreated for forty years in order to see the effects of syphilis.

<sup>22</sup> Malcolm O., Should We Strive for Total Scientific Freedom? [interactive]. 2012 [accessed 26-10-2012] <<http://www.bloomsburyacademic.com/view/Scientific-Freedom/chapter-ba-9781849669009-chapter-014.xml>>.

<sup>23</sup> Republic of Lithuania Law on the biomedical research ethics. 11 May 2000 No. VIII-1679, *Official Gazette*, 2000, No. 44-1247.

<sup>24</sup> Commission directive 2005/28/EC of 8 April 2005 laying down principles and detailed guidelines for good clinical practice as regards investigational medicinal products for human use, as well as the requirements for authorisation of the manufacturing or importation of such products. *Official journal L 91/13, 09/04/2005*.

The results of scientific research cannot be applied blindly, regardless of their consequences for human welfare. At the same time it is important to ensure that restriction of such freedom would be on stringent grounds. Freedom of research can and should be restricted when it is highly unlikely to yield benefits to the human kind, or when it is highly likely to yield significant harm. In all other cases, research is to be regarded as a public good, and as such, is to be defended and protected.<sup>25</sup>

So it can be concluded that freedom of research is a prerequisite in the protection of the right to a better and healthier society and to knowledge. But at the same time defending freedom of scientific research does not mean that there should be no control or no limits imposed. There is always a side of ethical, society's or individual interest and safety issues in the area of science and researches that must be evaluated.

It should be emphasized that it is hard to resolve an issue of national security in the abstract. Suppression of ideas or scientific research to protect national security requires a case-by-case analysis in order to determine what specific harms to national security are implicated; are these harms serious and imminent or just slight and speculative. But, case-by-case analysis is hard work, and it is far easier to invoke national security as a blanket justification.<sup>26</sup>

One more issue which could justify the restrictions of academic freedom is terrorist attacks. The terrorist attacks have a deep impact on personal and professional lives and raise an active debate regarding the balance between the need for national security and the pursuit of academic freedom. Following the terrorist attacks of September 11, 2001, some professors were rebuked for making statements seen as critical of the United States or its antiterrorism effort.<sup>27</sup> What if conducted academic research is very controversial or even inflammatory?<sup>28</sup>

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<sup>25</sup> Bonino E., Giordano S. The Future of Scientific Research Compromises or Ways Forward? [interactive]. 2012 [accessed 26-10-2012] < <http://www.bloomsburyacademic.com/view/Scientific-Freedom/chapter-ba-9781849669009-chapter-011.xml>>.

<sup>26</sup> Coggon J., What's Special about Scientific Freedom? [interactive]. 2012 [accessed 26-10-2012] <<http://www.bloomsburyacademic.com/view/Scientific-Freedom/chapter-ba-9781849669009-chapter-016.xml>>.

<sup>27</sup> The U.S. government after subsequently denying acknowledged that it prevented Swiss Muslim scholar Tariq Ramadan from assuming a position at the University of Notre Dame because of his ideology. There were more cases when government has excluded scholars because of their political viewpoint or involvement. Bolivian scholar Waskar Ari waited for nearly two years for a decision on the University of Nebraska's visa application while the faculty position offered to him languished. He studies political activism among Bolivia's indigenous Aymara people, an ethnicity he shares with Bolivia's president, who has opposed certain American interests in his country. John Milios, a Greek Marxist economist who was denied entry at the U.S. border despite having a valid visa, he was interrogated about his politics before being turned away. An Iraqi professor of medicine Riyadh Lafta, was denied a visa to lecture at the University of Washington about the public health effects of the Iraqi war. His research contradicts U.S. government data about death tolls from the war.

Levinson, R.B. Legal watch: Ideology in the Academy [interactive]. 2007 [accessed 26-10-2012] < <http://www.aap.org/AAUP/pubsres/academe/2007/JA/Col/lw.htm>>.



In 2002, the United States agencies of the federal government began to evaluate information available to the public through the Internet. The memorandum was issued cautioning that information reasonably expected to assist in the development of weapons of mass destruction should not be disclosed.<sup>29</sup> What should be the balance between the openness of scientific research and the needs of national security? It must be noticed that sometimes restriction of research may also diminish the development of technology, materials that can be used to fight terrorism.

Colleges and universities can contribute expertise in areas of sociology, psychology, philosophy, law, ethics, and the like, which will considerably increase understanding and awareness of the cultural, political, and religious basis for terrorism. Higher education institutions have a key role to play in protecting nation from terrorism, and homeland security does not have to be achieved at the expense of academic freedom.<sup>30</sup>

Authorities may seek to control scholars because the nature of their work requires the development of ideas, creation of knowledge, exchange of information, and conveying of new opinions. When information and ideas are perceived as threatening, individual scholars are particularly vulnerable. “Such scholars are labeled—explicitly or implicitly—as “dangerous,” “suspect,” “disloyal,” “dissident,” or “enemy” of the state, society, faith, family, culture, etc.”<sup>31</sup>

It has to be asserted that academic freedom also deals with threat from the growth in the use of new information and communication technologies to provide open and distance

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<sup>28</sup> Kevin Barrett, a University of Wisconsin-Madison professor claimed that the events of 9/11 were an inside job perpetrated by United States government officials acting in concert with the Central Intelligence Agency. He also claimed that 9/11 was arranged by the Bush Administration "to justify military operations in Iraq." Professor had planned to discuss his theory for his classes called "Islam: Religion and Culture." Gilmore, H. Has Garcetti destroyed academic freedom? [interactive]. 2011 [accessed 26-10-2012] <<http://www.aaup.org/AAUP/pubsres/academe/2007/JA/Col/lw.htm>>.

<sup>29</sup> Keel B.A., Protecting America's Secrets While Maintaining Academic Freedom [interactive]. 2004 [accessed 26-10-2012] <[http://journals.lww.com/academicmedicine/fulltext/2004/04000/protecting\\_america\\_s\\_secrets\\_while\\_maintaining.10.aspx](http://journals.lww.com/academicmedicine/fulltext/2004/04000/protecting_america_s_secrets_while_maintaining.10.aspx)>.

<sup>30</sup> *Ibid.*

<sup>31</sup> A professor of public health in North Africa published findings showing infant mortality at rates much higher than government figures. He was imprisoned. A political scientist from Southeast Asia and another from Europe published articles condemning violence by separatist movements in their respective countries and calling for public rejection of violence and promotion of nonviolent conflict resolution. One of them was assassinated outside his university; the other survived an attempt on his life when a bomb planted in his car detonated too early. Quinn R., Defending ‘Dangerous’ Minds. Reflections on the work of the Scholars at Risk Network [interactive]. 2004 [accessed 26-10-2012] <[http://www.ssrc.org/workspace/images/crm/new\\_publication\\_3/%7B5cebcead-2d60-de11-bd80-001cc477ec70%7D.pdf](http://www.ssrc.org/workspace/images/crm/new_publication_3/%7B5cebcead-2d60-de11-bd80-001cc477ec70%7D.pdf)>.

learning. An academic could be located within a state in which academic freedom is protected yet providing a degree course in a country in which academic freedom is absent.<sup>32</sup>

An important issue is faculty's researches or speech in cyberspace. What outcome does the use of electronic media have? Is there a difference if the statements are distributed to the students in class, or the same statements appear in a press, or is send as an e-mail to students. Sending an email to students should fall under stricter guidelines than posting information at a website. Students can choose whether to read a website while an email with graphic pictures is seen as soon as they open their email. If a professor sends to an individual student an e-mail that amounts to blatant political proselytizing, or blatantly disparages that student's religious faith, or conveys a sexual message a comparable sanction might well follow the message despite the difference in medium.<sup>33</sup>

Indeed, if academic freedom allows university professors and students to search for the unvarnished truth, no matter how ugly or unpopular, then there has to be room, for such professor to articulate his views. In such case students have a right to disagree with him or not read his publications. „The essential aspect is that the proprietary of scientific research must be judged by scientific standards, not by the pieties of public opinion. Insulted public can inflict great damage on the reputation of institutions of higher education. Fundamental proposition is that offense, outrage, or moral disapproval is not a proper ground for the regulation of research.”<sup>34</sup>

## CONCLUSSIONS

Higher education institutions have a responsibility to protect and support academic freedom and an obligation to help preserve nation's security. Government and universities working together may achieve the balance between protecting public security, state's secrets and maintaining academic freedom.

Freedom of research and publication is a part of the fundamental mission of the university to create new knowledge. Scholars will not create new knowledge unless they are free to inquire and share their results with the general public. At the same time scientific

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<sup>32</sup> Karran, T. Academic freedom in Europe: a preliminary comparative analysis [interactive]. 2007 [accessed 25-10-2012]. <<http://eprints.lincoln.ac.uk/1609/1/ProofHEPArticle1ForRepository.pdf>>.

<sup>33</sup> An unusual e-mail was send to eighty students. The electronic message contained an accusation that Israel had committed war crimes in Gaza, arguably analogous to Nazi atrocities during the Holocaust. Message claimed that “Gaza is Israel's Warsaw”. Also photographs were added from both the current Middle East and Nazi-occupied Europe seven decades earlier. O'Neil, R. Academic freedom in cyberspace [interactive]. 2009 [accessed 27-10-2012]. <<http://www.aaup.org/AAUP/pubsres/academe/2009/SO/Feat/onei.htm>>.

<sup>34</sup> Finkin M.W., Post R.C. For the common good: principles of American academic freedom. New Haven and London: Yale university press, 2009.

freedom is not an absolute freedom and that there can be certain exceptions and restrictions: scientific freedom must be in conformity with laws and the principles of ethics, and restrictions can be justified on the grounds of state or official secret.

Defending freedom of scientific research does not mean that there should be no control or no limits imposed. However the restrictions of the freedom of research should be on stringent grounds. Freedom of research should be restricted when the benefit is unlikely to the human kind, or when the significant harm is highly likely on the influence of dangerous knowledge or a dangerous way of gaining knowledge; also the misuse of biology and medicine which may lead to acts endangering human dignity; also terrorism which may highly impact public security. In all other cases, research is to be regarded as a public good necessary for creation of knowledge and a better and healthier society and must be defended and protected. Offense, outrage, or moral disapproval is not a proper ground for the regulation of research.

## REFERENCES

1. Constitution of the Republic of Lithuania. Official Gazette, 1992, No. 33-1014.
2. Republic of Lithuania Law on Higher Education and Research. 30 April 2009, No. XI-242. Official Gazette, No. 52-2140.
3. Republic of Lithuania Law on State Secrets and Official Secrets. 25 November 1999, No. VIII-1443. Official Gazette, No. 105-3019.
4. Republic of Lithuania Law on the biomedical research ethics. 11 May 2000 No. VIII-1679, Official Gazette, 2000, No. 44-1247.
5. The Constitutional Court of the Republic of Lithuania ruling on the compliance of the provisions of the Republic of Lithuania Law on science and studies (wording of 30 April 2009) with the Constitution of the Republic of Lithuania. 22 December 2011, Official Gazette, 2011, No. 160-7591.
6. Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, article 15. Official Gazette, 2002, No. 97-4258.
7. Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human being with Regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human beings. Official Gazette, 2002, No. 97-4259.
8. Commission directive 2005/28/EC of 8 April 2005 laying down principles and detailed guidelines for good clinical practice as regards investigational medicinal products for human use, as well as the requirements for authorisation of the manufacturing or importation of such products. Official journal L 91/13, 09/04/2005.
9. Bonino E., Giordano S. The Future of Scientific Research Compromises or Ways Forward? [interactive]. 2012 [accessed 26-10-2012] <<http://www.bloomsburyacademic.com/view/Scientific-Freedom/chapter-ba-9781849669009-chapter-011.xml>>.
10. Coggon J., What's Special about Scientific Freedom? [interactive]. 2012 [accessed 26-10-2012] <<http://www.bloomsburyacademic.com/view/Scientific-Freedom/chapter-ba-9781849669009-chapter-016.xml>>.

11. Finkin M.W., Post R.C. For the common good: principles of American academic freedom. New Haven and London: Yale university press, 2009.
12. Gilmore, H. Has Garcetti destroyed academic freedom? [interactive]. 2011 [accessed 26-10-2012] <<http://www.aaup.org/AAUP/pubsres/academe/2007/JA/Col/lw.htm>>.
13. Heisler, M.O. Academic Freedom and the Freedom of Academics: Towards a Transnational Civil Society Move [interactive]. 2007 [accessed 2012-10-15] <<http://onlinelibrary.wiley.com/doi/10.1111/j.1528-3585.2007.00301.x/full>>.
14. Karran, T. Academic freedom in Europe: a preliminary comparative analysis [interactive]. 2007 [accessed 25-10-2012]. <<http://eprints.lincoln.ac.uk/1609/1/ProofHEPArticle1ForRepository.pdf>>.
15. Keel B.A., Protecting America's Secrets While Maintaining Academic Freedom [interactive]. 2004 [accessed 26-10-2012] <[http://journals.lww.com/academicmedicine/fulltext/2004/04000/protecting\\_america\\_s\\_secrets\\_while\\_maintaining.10.aspx](http://journals.lww.com/academicmedicine/fulltext/2004/04000/protecting_america_s_secrets_while_maintaining.10.aspx)>.
16. Levinson, R.B. Legal watch: Ideology in the Academy [interactive]. 2007 [accessed 26-10-2012] <<http://www.aaup.org/AAUP/pubsres/academe/2007/JA/Col/lw.htm>>.
17. Malcolm O., Should We Strive for Total Scientific Freedom? [interactive]. 2012 [accessed 26-10-2012] <<http://www.bloomsburyacademic.com/view/Scientific-Freedom/chapter-ba-9781849669009-chapter-014.xml>>.
18. O'Neil, R. Academic freedom in cyberspace [interactive]. 2009 [accessed 27-10-2012]. <<http://www.aaup.org/AAUP/pubsres/academe/2009/SO/Feat/onei.htm>>.
19. Post, R.C. Democracy, expertise, and academic freedom: a First Amendment jurisprudence for the modern state. New Haven and London: Yale university press, 2012.
20. Quinn R., Defending 'Dangerous' Minds. Reflections on the work of the Scholars at Risk Network [interactive]. 2004 [accessed 26-10-2012] <[http://www.ssrc.org/workspace/images/crm/new\\_publication\\_3/%7B5cebcead-2d60-de11-bd80-001cc477ec70%7D.pdf](http://www.ssrc.org/workspace/images/crm/new_publication_3/%7B5cebcead-2d60-de11-bd80-001cc477ec70%7D.pdf)>.
21. Magna Charta Universitatum [interactive] Bologna, 1988 [accessed 30-10-12] <[http://www.magna-charta.org/library/userfiles/file/mc\\_english.pdf](http://www.magna-charta.org/library/userfiles/file/mc_english.pdf)>.
22. NDU faculty handbook [interactive]. 2008 [accessed 28-10-2012]. <<http://www.ndu.edu/aa/policies/Academic%20Freedom%20NDU%20policy--Nov%2008.pdf>>.
23. <<http://en.wikipedia.org/wiki/Toxin>>.

## MOKSLINIŲ TYRIMŲ LAISVĖ IR VISUOMENĖS SAUGUMAS

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### Santrauka

Akademinė laisvė yra konstitucinė teisė laisvai apsispręsti, ar užsiimti mokslu ir moksliniais tyrimais, taip pat teisė laisvai pasirinkti mokslinių tyrimų sritį ir atitinkamų dalykų tyrimo metodus, formuoti mokslinę pasaulėžiūrą. Vienas iš pagrindinių principų, yra galėjimas kurti naujas žinias pasitelkus mokslinius tyrimus be jokių apribojimų. Mokslininkai turi turėti galimybę laisvai pasirinkti konkrečią mokslinių tyrimų erdvę, o tai gali padėti užtikrinti naujausių žinių perdavimą studentams. Straipsnyje analizuojami moksliniais tyrimams bei jų rezultatų skelbimui taikomi apribojimai, jų pagrindimas bei ribos. Taip pat yra keliamas klausimas koks turėtų būti santykis tarp mokslinių tyrimų atvirumo ir nacionalinio saugumo užtikrinimo? Mokslinių tyrimų laisvės apribojimas galėtų būti pateisinamas, kai yra didelė žalos tikimybė, kuri gali turėti lemiamos įtakos visuomenės saugumui. Tai gali lemti pavojingų žinių ar pavojingo būdo įgyti žinias naudojimas, taip pat neigiamos įtakos žmonių orumui turintis biologijos ir medicinos mokslo taikymas, teoristiniai išpuoliai, informacinių technologijų suteikiamos galimybės. Visais kitais atvejais moksliniai tyrimai turi būti akcentuojami



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kaip visuomeninis gėris, reikalingas žinių ir geresnės bei sveikesnės visuomenės kūrimui, todėl turi būti ginami ir saugomi.

**Pagrindinės sąvokos:** akademinė laisvė, tyrimų laisvė, viešasis saugumas.

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