

Working Papers on University Reform

Working Paper 2:

Trust in Universities

- Parliamentary debates on the 2003 university law

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Trust in Universities - Parliamentary debates on the 2003 university law

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Introduction

The 2003 Danish University Law was heralded at the time as marking major changes in the role of universities, their relation to the state and society, and their internal management. It was the changes to governance and management that occupied centre stage in the public debate, especially the establishment of new governing boards with a majority of external members and the appointment of university managers (rector, dean and head of department). This study of the parliamentary documents surrounding the passage of the law investigates key concepts and arguments through which wider changes to the role of universities were debated. Arising from the study, it is clear that ‘trust’ became an important issue framing the demand that universities develop a new relationship with government and society.

The parliamentary process of lawmaking is very well documented in Denmark. The text of the law, the explanatory memorandum (*bemærkninger*) that the government publishes as an annex to the first draft of the law in time for the first parliamentary debate, transcripts of all three parliamentary debates, all responses to consultation and commentaries from interest groups affected by the law, all material presented in the parliamentary committee concerned with the law’s area, the memorandum of considerations (*betænkning*) produced by the parliamentary committee to inform the 2nd debate about the law, and minority statements criticising the final draft of the law, are all directly accessible on the relevant ministry’s homepage. In the following working paper I have focused on the debates in parliament and the memorandum of considerations (*betænkning*) produced by the parliamentary committee on science and technology.

The government’s explanatory memorandum (*bemærkninger*) and the parliamentary committee’s memorandum of considerations (*betænkning*) are of crucial importance. They, alongside the law text itself, are the primary source of law in Denmark as they explain the motives behind the law (Folketinget 2003c).¹ The law making process starts before the first of the three parliamentary debates. In the months before the first debate, the government will have discussed its ideas for the new law with both the parties that make up the governing coalition and the opposition parties.² There will have been working papers, reports, discussions, and consultations with interested parties, relevant industrial and civil society organisations, unions and pressure groups. Critiques from these external interested parties are incorporated into the lawmaking

¹ “Source of law” is a translation of the Danish “retskilde”. The Danish word’s original meaning is that which motivates justice. A source of law is what the judicial system bases its decisions on, and what is supposed to guide a law’s practical implementation.

² At the moment of the passing of the university law of 2003 the government was made up of Denmark’s Liberal Party (Venstre) and the Conservative People’s Party (Det Konservative Folkeparti). The majority behind the law consisted of the government parties and the Social Democrats (Socialdemokratiet) and the Christian Democrats (Kristendemokraterne). Opposing the law were the Danish People’s Party (Dansk Folkeparti), the Socialist People’s Party (Socialistisk Folkeparti), the Danish Social-Liberals (Radikale Venstre), and the Red-Green Alliance (Enhedslisten).

process. Usually the draft law already has majority backing when it is presented in parliament, and the draft published in time for the first parliamentary debate is close to identical to the final law. To become a law, it has to go through three parliamentary debates, between which the law text is amended to fit the wishes of the majority necessary to vote it through. During each debate each party has the opportunity to let a spokesperson comment on the law proposal. After each speech by a party spokesperson, members of parliament take turns first to ask questions of the spokesperson, and later to make short comments. The debate is concluded by the relevant minister, who is then also asked questions by members of parliament. Traditionally the first debate is the fiercest, and the one with the broadest parliamentary participation. In the case of the debate over the university law, the 2nd and 3rd debates were a repetition of the 1st debate. They mainly commented on the process of lawmaking and the debating climate. In order to provide a sense of this meta-debate, I have decided to include material from all three debates in the following account.

The work in parliament is highly focused on the production of texts. The speeches are written, and presented orally, with a view to their being written into the summary of the parliamentary debates. The whole relationship between text and speech is interesting, since the legitimacy of the texts produced is highly contingent on the oral practices in parliament. On the other hand these practices are often carefully prepared in manuscripts. I do not suggest that the event of a parliamentary debate can be equated to the documents available for my study today. The documents are but traces from which I can build an interpretation of the events of 2003 - an interpretation which in itself is a new event of text-production. Additionally, it is important to note that the available documents omit a number of aspects of the debates. Noise in parliament, the expression on people's faces, laughs, or even smells are never written into the summaries. If one looks carefully at the summaries it is, however, possible to find their negative imprint in the speech of a politician who, for example, repeats a point to underline its meaning whilst other politicians are showing gestures of disapproval. Sometimes the chairman of the parliament is quoted in the summaries calling the politicians to order, or asking them to correct their manner of addressing each other, and at other times a small parenthesis reading "jolliness" (*munterhed*) is found in the summaries. Text is important, and the text produced in parliament is extremely important, but the event of the production of text cannot be equated with the text itself, just as the effects of the text, in this case the university law of 2003, cannot be equated with the law itself.

First parliamentary debate

The first parliamentary debate about the new university law took place on 24th January 2003. This was nearly a year after the minister of science, Helge Sander, had first publicly announced the law, and, as noted above, the first debate is the concluding

part of the lawmaking process, and not the beginning or the middle of it.³

The first parliamentary debate was inaugurated by Hanne Severinsen, spokesperson on science from the governing Denmark's Liberal Party (Venstre), who presented the law as a unique possibility for securing the universities' role in the knowledge economy (Folketinget 2003b: 1-2). Knowledge was, she stated, increasingly important for the development of countries, and that presented a challenge to universities. Universities' ability to take on this challenge, she argued, was conditional on the allocation of more influence and more funds to their organisations, which in turn was conditional on society's trust in them as responsible, professional, and effective. According to Severinsen the law aimed at providing this trust by constructing the universities as self-owning, and giving them a higher degree of freedom from state interference on the one hand, and quality assurance incorporated into their development contracts with the Ministry of Science on the other. Severinsen called the development contracts the instrument that would secure the universities' contract with society, but at the same time she gave assurances that the universities and their research would remain independent. As a consequence of the law, the universities would be governed by governing boards with a majority of external members who were supposed to work in the interests of the newly independent universities, as well as functioning as a "bridge" to society. Figuring out the consequences of an external majority on the governing boards, and whether the universities and their research would become more or less independent as a consequence of the law, were the main themes of the ensuing debate. An important common reference point for this debate seemed to be the contract between the universities and society, and, as Severinsen hinted, one important thing at stake in the debate was society's trust in the universities.

Before the debate had even started, the leader of the Danish Social-Liberals (Radikale Venstre), Marianne Jelved, had hinted at some of the discussions that were to dominate it. During the debate over the yearly state budget on 6th December 2002, Jelved had referred to the government's argument that strong leadership was necessary in state institutions with large budgets, and called the proposed new university law a clear statement of distrust in elected leadership (Folketinget 2002). In her first remarks during the actual debate over the law proposal, she proceeded along the same lines, and pointed out that Denmark's Liberal Party (Venstre) apparently did not trust the competence of elected leaders (Folketinget 2003b). In fact, discussion about the law's consequences for the internal democracy of universities never became a big issue during the debate. Instead, perceived limitations on the autonomy of the universities, as well as on the independence of the individual researcher, took centre stage. Jelved's evocation of the government's lack of trust in universities however remained the baseline of the debate.

³ For an account of the earlier steps in the process of making the 2003 university law, see Andersen (forthcoming)

Morten Homann of the Socialist People's Party (Socialistisk Folkeparti) made the first incantation of "the song about freedom of research," as the Social Democratic spokesperson on science, Lene Jensen, was later to label it (Folketinget 2003d: 3). In his first remark on the proposed law, he asked Severinsen if she could confirm that the new law was limiting freedom of research by demanding of researchers that all their work should be done within the research strategy of the university (Folketinget 2003b). Homann argued that it was exactly this limitation on freedom of research that provoked most resistance to the law within the universities. Further, he pointed to what he perceived as a lack of motive for the whole law. Homann had understood the motivation to be to make universities effective and responsible, but he had yet to hear one single example of ineffective or irresponsible use of government funding by universities.

During the debates, Homann formed an unusual alliance with the spokesperson on science from the Danish People's Party (Dansk Folkeparti), Jesper Langballe, who turned out to be a fierce defender of freedom of research in universities. In his first remark he stated that he was not reassured or convinced by Severinsen's assertions that freedom of research would be intact after the passing of the law (*ibid.*). He compared the preamble of the law proposal, which guaranteed universities' freedom of research, with the preamble of the former German Democratic Republic's constitution, which had guaranteed democracy. Neither Severinsen, nor the law's preamble, he stated, could make him trust the guaranteed freedom of research of the university law, just as he never believed democracy really existed in the old East Germany. This particular issue of lack of trust was the main criticism levelled by the opposition at the new law, but, as we shall see, this same issue became the tool that the majority parties ended up using to settle the debate. Before reaching that point, the debate was to clarify further the different positions on both society's trust in the universities, and the universities' trust in society. An interesting moment in the debate was the seeming conflation of society, and state or government, in some of the statements; while others referred to society as a factor outside state and government that needed to be taken into consideration.

Hanne Severinsen answered the critique with the argument that the law did not change anything about research freedom. Researchers have always been working within the priorities of their departments, so freedom of research was exactly as it has always been, she stated (*ibid.*: 4). Researchers, according to Severinsen, had the same possibilities for doing their own projects as always, and she did not understand on what basis the minority parties' critique rested. For her, freedom of research was only being defined more accurately (*præciseret*). Homann did not agree, and opened up another flank in his attack on Severinsen. He found it hard to believe that the external majority on the universities' governing boards would necessarily act as safeguards for freedom of research (*ibid.*: 5). This argument was followed up by Jesper Langballe, who suggested that the reform would shift the focus from independent basic research to goal- and result-oriented research (*ibid.*: 6). He noted that Severinsen did not even bother to argue for this shift, or for the shift to an external majority on the governing

boards. What Severinsen did argue for, though, was that strong or “inspiring” leadership in universities would put an end to their ineffective collegial leadership, where decisions, in her view, had been hard to reach and far too dependant on consensus to promote change. Severinsen wanted timely education that suited the surrounding knowledge economy and, to reach that goal, the leadership of the universities needed to be capable of deciding priorities (ibid.: 5-6). She saw no problem in having that leadership based on external members of governing boards, and she even argued that, in many cases, the private sector’s involvement would reduce restrictions on university research as business interests would replace political interference (Severinsen says in Danish: “Betingelser...som vi sad og gnidrede med og gav fra samfundets side”) (ibid.: 8). Interestingly, this last point suggested that universities could trust industrial interests to secure their independence better than the state had. This argument opened up the possibility that the relationship of trust between state and universities went both ways.

Former minister of education Margrethe Vestager of the opposition Danish Social-Liberals (Radikale Venstre) caught on to this point and asked Severinsen why the new university law, which was changing the status of universities from state institutions to self owning institutions, was also full of new powers for the minister over the universities, and why it was not up to each university to define its own structure of management and its responsibilities regarding freedom of research (ibid.: 9). This question anticipated discussions to come about the role of universities in society, and Severinsen’s answer (ibid.: 11) brought the concept of the universities’ contract with society into the debate. Severinsen stated that the whole idea of the governing boards with an external majority rested on setting the universities free. When the government “gives” the university “freedom”, they become self-owning: they become legal subjects, and in order to have that freedom the universities need responsible governing boards to make a contract with society. The development contract is what constitutes that contract. This contract states goals for the universities to fulfil, and it is the responsibility of the governing boards to ensure that they achieve these goals, Severinsen stated. It did not mean that day to day research would be confined by those goals: they merely formulated the overall strategies. She developed this last argument by calling it a misunderstanding to think that the governing board would be occupying itself with research at department level. As she put it: why bother to hire a head of department if the governing board was to engage in detailed management? Subsequently the Conservative People’s Party’s spokesperson on science, Pia Christmas Møller, instigated another use of the word “contract” in her first remark in the debate, by offering a guarantee to the opposition that the university law was not threatening the freedom of research: she stated that it would be illegal if the new law was used to limit freedom of research (ibid.: 11). Severinsen confirmed this and stated that it would also be against the objective of the majority parties: they wanted strong and independent universities (ibid.). Lene Jensen, who made her speech as spokesperson for the opposition Social Democrats (Socialdemokratiet) right after this, also signed up to this “contract” by attempting to end the discussion on freedom of research with the guarantee that if anybody could pinpoint any concrete formulations

in the law that undermined freedom of research, the text would be changed.

Lene Jensen's speech took the debate to a more intense level (ibid.: 11-13). From the rostrum she declared that the Social Democrats had no distrust in the universities as such, but the development of the knowledge economy (*videnssamfundet*) and internationalisation put new demands on institutions of higher education. According to Lene Jensen, both factors placed the knowledge production of universities centre stage in the further development of the welfare society (*velfærdssamfund*), both culturally and economically. This position made new demands on the universities' management, which would need the strength and flexibility to make strategic decisions at a fast pace. That was why, she said, the Social Democrats supported the shift towards governing boards and hired leaders at the universities, and that was also the reason for the Social Democrats' support for the law's intentions to give universities a higher degree of independence.

That the Social Democrats did not mistrust the universities did not imply that society had a general trust in universities. As Lene Jensen continued, it was a high priority for the Social Democrats that the universities' role and activities were appreciated by society (“*større grad af forståelse [fra samfundet] for universiteternes rolle og virke ...*”). Lene Jensen emphasised the need for universities to open up and make themselves visible in public debate in order to assert their *relevance*. She saw the new law as a facilitation of this process and asked companies and other educational institutions to return the spirit of the law with a new open approach to universities. Openness aside, Lene Jensen once again assured parliament that the Social Democrats held academic freedom and freedom of research in high esteem and had no intention of limiting them. Further, the Social Democrats saw freedom of research as essential for the universities' fulfilment of their legal responsibilities as repositories of culture and knowledge (“kultur- og vidensbærende institutioner”).⁴

In the final remark of her speech, Lene Jensen described the intention of the Social Democrats to join the majority behind the law in order to give universities the best opportunities of acting in new ways, and to limit the negative consequences that would follow if universities were reformed by the Conservative People's Party (Det Konservative Folkeparti) and Denmark's Liberal Party (Venstre) alone. These consequences included, she argued, the direct influence of industry on the management of universities. While giving a speech that endorsed the new management structure and the law's intention of having a stronger focus on exchange between universities and society, she, in her last remark, managed to distance herself from the whole project by suggesting how much “worse” it would have been without the Social Democrats.

⁴ “Freedom” is throughout the debate and law preparation used in the plural. Universities are given a number of “freedoms” or “degrees of freedom”. If we look to physics, “degrees of freedoms” are used to signify the set of movements that a body or system can make. For example, the turns and twists that a human hand can make, and those it cannot make, describe its degrees of freedom. Freedoms are, both in physics and for universities, well defined. (Source: www.wikipedia.org).

In their comments on Lene Jensen's speech, both Homan and Langballe pressed for clarification of the problem that the Social Democrats wished to solve with the help of the new law (ibid.: 13-14). Homan pointed out that Lene Jensen claimed to be satisfied with the current working of the universities, while Langballe spurned Jensen's reference to Danish international competitiveness as technocratic jargon used to cover up what really was at stake in the law - from Langballe's perspective, the attack on freedom of research. Jensen responded by admitting that she did not perceive the situation behind the universities' thick walls ("*bag de tykke mure*") to be perfect, and that she would like the debate to take as its starting point an acknowledgement of the need for universities to develop and change (ibid.: 14). She also regretted Langballe's view on competitiveness as technocratic jargon, and deemed it very important for a society to be competitive, hereby reasserting her role as a protector of society's interests in the universities.

Elisabeth Arnold of the Danish Social-Liberals (Radikale Venstre) continued with the discussion about the Social Democrats' satisfaction with, and trust in, the universities. In a comment on Lene Jensen's speech she stated that the new law was a Social Democratic dream come true (ibid.). Arnold further suggested to parliament that the Social Democrats never liked the democratic management of the universities. During the former coalition government, the Social Democrats had been her party's partner in the educational reforms that founded the new Danish University of Education (DPU) and merged the Professional Education Colleges (MVUs) into Centres for Higher Education (CVUs). Arnold claimed the Social Democrats had always wanted the strong, efficient strategic management of the new law. Arnold even called the new university law a moment of truth, where the wishes of the Social Democratic base of support were finally articulated. Arnold hereby rejected the Social Democratic claim, stated by Lene Jensen, that the Social Democrats had joined the majority behind the law to defend the universities' independence. Rather, the new form of university government was to be seen as corresponding with the Social Democratic wishes. Vestager later argued that the Social Democrats wished to use the new management structure to safeguard the usefulness of universities for society's development. In this way the discussion of the universities' connection to productivity in society became central. Arnold's remarks started the discussion over the relationship between freedom of research, the independence of universities, and the relevance of university research, that was later to dominate the debate. But before this relationship was debated further, Hanne Severinsen thought it necessary to have Lene Jensen confirm that freedom of research was guaranteed in the new law and was a precondition for the successful partnership between society and the universities - as free basic research was what made universities attractive to society (ibid.: 15).

Severinsen's restatement of the guarantee for freedom of research was subsequently used by Social-Liberal Margrethe Vestager who, as already mentioned, linked attacks on freedom of research to the Social Democrats' vision of the role of universities in society. Addressing Lene Jensen, she said the limitation on freedom of research that

she perceived to exist in the new law, was well suited to the Social Democratic vision that universities should only engage in useful ("nyttig") research that was relevant for the development of society (ibid.). Jensen in return restated her guarantee that the law would be changed if freedom of research was threatened by any concrete formulations in the law text (ibid.). She avoided discussing the general Social Democratic position on university democracy and independence by suggesting that Arnold's critique drew on Social Democratic attitudes from debates around 1968, when Jensen herself was four years old (ibid.). Jensen did, however, admit to viewing the democratic model of the universities as unsatisfactory, and she polemically rejected Vestager's critique of the Social Democratic call for relevance by saying that Vestager surely did not imply that irrelevant research would be desirable (ibid.). Vestager later replied that the point of research was indeed to defy short term relevance criteria, and that the limitation on freedom of research inherent in the law's text fitted the Social Democratic worldview perfectly (ibid.: 19).

Elizabeth Arnold from the Danish Social-Liberals subsequently suggested that the independence ("*uafhængighed*") of the universities was what was really at stake with the new law (ibid.: 17), especially since the ability of universities to defend freedom of research relied on their independence. Lene Jensen agreed with this latter point, but argued that the independence of the universities did not follow from their present form of management (ibid.). Rather, she argued, it followed from the universities' freedom of research, which she did not see as threatened, either by the law's description of it, as Homan had suggested, or by the external majority on the governing boards, as Langballe suggested. The governing board's role, she repeated, was not to deal with the details of research at department level (ibid.: 19-20). However, she did agree to hold a further investigation into the law's text on research freedom, both in relation to the governing board's external majority and the head of department's power, during the committee stage that was to take place between the first and second parliamentary debates. This restatement of the majority parties' guarantee that research freedom was not threatened could have settled the debate on the issue, but as each political party in parliament was allowed to let their spokesperson give a speech during the debate, the Danish People's Party (Dansk Folkeparti) spokesperson, Jesper Langballe, was soon tempted to raise the issue again.

Jesper Langballe opened his speech as spokesperson for the Danish People's Party (Dansk Folkeparti) with the phrase "*wa nøjt æ et te?*"- "what is the use of it?"- spoken in dialect. This opening marked the beginning of the last round of debate over freedom of research during the first parliamentary debate over the law (ibid.: 21-22). In his speech Langballe attacked what he perceived to be a limitation on freedom of research and a commoditisation of research and education inherent in the proposed law. He argued that the real criterion of freedom of research was the ability of universities to sponsor "irrelevant" research (*unyttig*). That is, research which does not 'engender growth and welfare in society' (he quoted the law: "*medvirker til samfundets vækst og velfærd*"). He called the law a fist in the face of universities' research culture and freedom of spirit. He scorned the idea of external leadership and

an external majority on the governing boards as discriminatory, undemocratic, and denigrating, and rejected the new self-ownership of the universities as empty and sure to be combined with state control. The law, he stated, was a deadly unidirectional standardisation of the multiplicity of institutions arbitrarily named universities by the ministry. Langballe concluded the discussion by stating that the external majority on the new governing boards of the universities would put the social application of research centre stage in the universities (ibid.: 25). This, he argued, would not only damage the freedom of research, it would also threaten the freedom of spirit at the universities - a freedom of spirit that has guided research as the means to attain truth and knowledge.

This attack on the proposed law's consequences for freedom of research did not have the effect Langballe had wished for. Before arguing against the proposed law's effect on academic freedom, in critiquing a minor feature of the proposed law, he made the mistake of quoting some text from an earlier draft of the law, which did not appear in the final draft. This was commented on and ridiculed by the majority parties, who argued that Langballe's critique was based on hearsay and rumours rather than the concrete text of the law proposal. The provisions which were central to Langballe's statements on freedom of research had, however, not been changed from Langballe's earlier draft to the one under debate. According to one personal account of the debate, the majority party's use of ridicule derailed the opposition's argument on freedom of research, and undermined the opposition's main line of attack on the draft law (Gregersen, 6th February, 2006, personal communication). Margrethe Vestager also interpreted Langballe's minor blunder as giving victory to the majority parties. She concluded with a remark in support of Langballe, but directed at the majority parties (the chairman corrected her for this) "You got lucky there, didn't you?" ("*Der var I godt nok heldige, hvad?*") (Folketinget 2003b: 24). Langballe's failed attempt to put research freedom and the value of university independence centre stage ended further debate over these issues.

After Langballe's failure to focus the debate on freedom of research and the independence of universities, the focus shifted to society's trust, or lack of trust, in universities. The Conservative People's Party's spokesperson Pia Christmas-Møller was the next speaker. Aiming at lifting the sad atmosphere she felt hanging over the debate, she started by declaring herself to be very optimistic about the law proposal at hand (ibid.: 25-26). She called the new law a bridging between universities and society, and reminded parliament that it was the result of 10 years' effort, which began with the law of 1993 and intensified with the work of the Research Commission (Forskningskommissionen) in 2000 and the experimental use of paragraph 12 of the existing university law to create the Danish University of Education (DPU) and the Danish Technical University (DTU) as self-owning institutions. Starting the debate on society's trust in universities, Christmas Møller claimed that the law was an expression of trust in the universities and was dependant on mutual trust for its implementation. One way of trusting the universities was by letting them appoint the members of the new governing boards, and "as if this was not enough" ("som om det

ikke var nok”), as she put it, to let the new governing boards formulate the procedures for appointing governing board members in future. Self-ownership was also a show of trust in the institutions, she stated. It was a wish to award the universities degrees of financial freedom. As she saw it, the reform was an expression of a wish for the further development of universities. It was not a critique of them. Later she clarified this by stating that the strengthening of the management structure and the establishment of accountable leadership was what would make universities ready to compete internationally (ibid.: 28).

The positive spirit of Christmas Møller was first attacked by Homan of the Socialist People’s Party (Socialistisk Folkeparti) who asked her to define better the problem with the present universities. He was himself, he stated, very impressed with what was already going on in the universities. The universities were already developing, and he feared the law would stop that. He feared the law would create a situation of distrust in the universities’ leadership among the universities’ employees. Trust was also evoked by Margrethe Vestager, who pointed to the majority parties’ lack of trust in the quality of the universities’ responses to consultation about the law (which had been largely critical). She saw this in stark contrast to the trust the majority parties seemed to have that the future self-owning universities would unproblematically accept the law.

In Homan's own speech as spokesperson for the Socialist People’s Party, he agreed that the university law should be changed (ibid.: 30-32). On the other hand he completely disagreed with the changes set out in the law proposal at hand. One of the areas he underlined was, not surprisingly, what he perceived of as a strengthening of the ministry's influence over universities’ research strategies, and of the university management’s influence over the research of the individual researcher. Homan did not explain what it was he would like to see changed in the universities. According to the Socialist People’s Party’s own alternative proposal for a new university law, though, they wanted, among other things, equal representation of students and employees at all levels, and for rectors to be replaced by hired managers. Nor did Homan clarify the nature of his trust in universities in his speech. However, the remarks that followed his speech developed the concept of society's trust in universities further in relation to freedom of research. Severinsen suggested in response to Homan's speech, that Homan's view of freedom of research implied that whatever the researchers were working on now was what they should be allowed to work on forever (ibid.: 32). Homan did not agree with this (ibid.: 33). To clarify his position he explained his view on research as a process that cannot be planned (“*en proces, som er umulig at planlægge*”). One could discuss and formulate strategies for the way research should develop, but it could not be planned. He was afraid that the proposed law would make research become stuck in a groove, and he argued for setting research free (“*giver den frihed*”) in order to create a space for unconventional ideas (“*skæve ideer*”).

Severinsen caught on to this and argued that the new law was a way of supporting

researchers who stood out (ibid.). The law, she argued, made it possible to support outstanding researchers and their environments, and give them some trust (“*give noget tillid*”), funding, and an effective leadership, so that good researchers could flourish. Homan did not agree (ibid.). He saw the law as having quite the opposite message: that the priorities of the new governing boards and of the development contracts would tell researchers “here is something you can't do research on” (“*her er noget, du ikke må forske i*”). He warned that the law put a lid (“*lægger låg på*”) on the researchers and limited them. It was the very nature of research that would be violated, he argued. There had to be room for mistakes if one wanted to open up the possibility of having a brilliant idea.⁵ Severinsen argued back that the governing boards would do the opposite of putting a lid on researchers (ibid.: 34).⁶ The governing boards were going to open universities up (“*åbne op*”). Homan was not convinced. He read from paragraph 17 point 2 of the law proposal, that researchers have to keep within the research strategic framework of the university. This could be called a lid, a limitation, or whatever, he suggested, but the bottom line was that it limited the researcher from researching freely (“*forske frit*”).

Severinsen's linking of the government's trust in university researchers with the willingness of the government to fund researchers “worth” being trusted, was not developed further in the debate as it now became Vestager's turn to give her speech as a spokesperson for the Danish Social-Liberals (Radikale Venstre) (ibid.: 34-36). Her speech was a harsh and long critique of the proposal at hand, but her main worries seemed to have been the limitation on university autonomy in the law, and the government's lack of trust in the universities' own abilities. The government expressed this lack of trust, she argued, in their unwillingness to incorporate into the draft law the universities' own arguments in their responses to the government's consultation. What Vestager would have liked was a continuation of the development begun by the establishment of the self-owning Danish University of Education (DPU) and the granting of self ownership to the Danish Technical University (DTU). This development she saw as guided by high demands from the politicians, but also by great trust (“*stor tillid*”) in that the universities were to define their own management structure (Ørberg 2006a gives a more critical view on this bottom up version of the history of self- ownership).

After Vestager's speech, there followed speeches from the spokesperson for the Red-Green Alliance (Enhedslisten), Pernille Rosenkrantz-Theil, and the spokesperson for the Christian Democrats (Kristendemokraterne), Bodil Kornbek. These two seemed rather disconnected from the discussions so far, but it is worth noticing that

⁵ This could be described as the “Bohr-argument”. The example of the famous Danish physicist Niels Bohr was often put forward as a role-model for researchers in the Danish debate (Langballe did it in this debate). A researcher like Bohr is an artist. The researcher is inspired. The researcher should be nurtured, pampered, and protected - then brilliant ideas will arise that will take us further. Would Bohr have succeeded in developing his brilliant ideas in today's research environment?

⁶ Nobody questioned the appropriateness of this lid-metaphor. Should the researcher be allowed to let off steam? Or even boil over? After all, water boils more easily under a lid..

Rosenkrantz-Theil equated industrial influence on universities with loss of autonomy, while others seemed to focus more on the universities' relationship with the state when autonomy was discussed.

Vestager's argument about the lack of trust in universities was fuelled again by Helge Sander's speech, which concluded the speeches of the first debate (ibid.: 38-42). In it Sander presented the new law as a means to secure and strengthen the universities' future. He also argued that the law established a framework for proper administration of the budget for university research, which was to be increased by 10 billion Danish kroner, as well as providing the conditions for the further integration of universities into society. The latter was, according to the minister, a precondition for future support for the expansion of university funding. Vestager was provoked by the "10 billion Danish kroner argument" and, returning to the opening argumentation of her party leader, Jelved, she asked, if, by the same token, the power of parliament's 179 *elected* amateurs to control the 400-500 billion Danish kroner state budget was threatened (ibid.: 43). Sander's position on the issue seemed to be made clear in one of his last remarks, where he, in answering both Vestager's critique and Langballe's points on freedom of research, made clear that he preferred professional university management to amateurs, and, contrary to Langballe, he put trust in governing boards with external majorities (ibid.: 47). In concluding the first debate on the law, he also announced that he still felt confident ("*tryk ved*") in the new management model for the universities, and that he was sure Vestager and the universities would end up sharing that feeling (ibid.: 48).

Work of the Committee for Science and Technology

After the first parliamentary debate the law went to parliament's committee for science and technology for further work on the final text. The result of this work was the so-called "memorandum of considerations" (*betænkning*) that lay behind the new law. This document included minority viewpoints, proposed changes to the law's text, and the minister's answers to questions raised both inside and outside parliament. The memorandum of considerations exists in a first and second draft, and in a final form. The drafts were concluded as the minority parties finished making their remarks and proposals for changes, and as the minister answered the questions he was asked. The memorandum included a list of 109 annexes, and a reprint of 27 of the answers given by the minister to questions from the committee (Udvalget for Videnskab og Teknologi 2003c). The annexes included all comments and questions directed at the ministry in the course of the lawmaking process. Each reprinted question had been requested to be printed by a certain member of the committee. The committee processed the law proposal in seven meetings.

Freedom of research was discussed in the 15th question to the minister raised by the committee on 11th February 2003. In his answer the minister and his ministry

concluded that there was no limitation on the existing freedom of research inherent in the law proposal (Sander 2003). Rather, the law should be seen as providing a more accurate description of the hitherto existing rules in this area. The argument for this answer was based on a note that compared the existing and the proposed law, which the minister included in his answer. The note divided the question of freedom of research into two: as seen in relation to the university, and as seen in relation to the individual researcher.⁷ The first part of the answer was quite straight forward, pinpointing the text in previous laws that corresponded to the text in the new law (ibid.: 3-4). The second part of the answer was a little more complicated (ibid.: 4-8). In the old law, the individual's freedom of research was only described in the explanatory memorandum. Both here and in the old law's memorandum of considerations, the individual's freedom of research was discussed in relation to the power of the head of department to allocate tasks and "use up" the working hours of the researcher and thereby limit the researcher's possibility of taking up self-defined tasks. This power was unlimited already in the old law, although the law's explanatory memorandum stated that the researcher had a free choice of method. In the new law this relationship between researcher and head of department is included in the text of the law itself. The much discussed relationship between the researcher and the research strategic framework of the universities also, according to the note, corresponded with the existing laws. The note equated this relationship with the relationship that researchers had with their so-called "area of employment", and it even suggested that the new law could be seen as securing the freedom of the researcher, insofar as it is stated in the new law's explanatory memorandum that the researcher is free to choose not only method, but also approach and subject within the set strategic framework. The note's conclusion, however, limited itself to stating that the proposed law defined the present juridical praxis more accurately.

In the first draft of the memorandum of considerations, the majority behind the law stated that the new law makes universities into self-owning institutions with extended freedom from state regulation and management (Udvalget for Videnskab og Teknologi 2003a: 3). They further stated that no limitation on the freedom of research was intended or included in the new law. However, the majority found it necessary to restate (referring to the Berne Convention)⁸ the researcher's freedom in relation to publication, and to make clear that the universities' development contracts neither can, nor should, be used to limit freedom of research. In the minority parties' remarks, the

⁷ This divide between the freedom of the university and of the researcher is taken for granted, but they seem to be connected. Limitations on freedom of research that are placed upon universities occur in the negotiation with the ministry over the university's development contract. Limitations on the freedom of the individual researcher are defined in the researcher's relation both to the head of department and to the general research strategy. The head of department's role is, in large part, to ensure the department contributes to the fulfilment of the general research strategy. The research strategy is, in turn, connected to the development contract. The divide obscures the link between the ministry's scrutiny of the university and the daily practices of the researcher.

⁸ An international convention aimed at international protection of intellectual property rights. It was set up in 1886 on the initiative of Victor Hugo and was last revised in 1971. The convention has been adopted by 160 countries. The last of these was Nepal on 11th January 2006.

Socialist People's Party restated its point that the obscure relationship between the universities and their surroundings instituted by the introduction of governing boards was a limitation on the freedom of research. The Party even proposed an amendment to paragraph 17 of the law proposal, the paragraph which defines the nature of the researcher's relationship to his or her superiors. The amendment was designed to make it possible for researchers to conduct research outside the framework of the research strategy decided upon by the governing board (ibid.: 7). It was only supported by a minority of the parties, thereby revealing the importance to the majority parties of the formulations already in the law proposal.

Though industry's influence over universities' research seemed to engender most opposition during the debate of the law proposal, some interest in the minister's direct influence over universities is apparent in the printed questions in the memorandum of considerations. In a few of them the minister is asked to define his power, or describe how he intended to exercise his power. One example was question nine, which was printed in the document at the request of the Socialist People's Party (ibid.: 9). The question was about bachelor degrees ("*professionsbacheloren*") from the Centres for Higher Education (the CVUs), and if the minister had intentions of securing the status of this qualification in the educational system. The minister answered that he was responsible for securing that universities lived up to their responsibilities, which he intended to do through the approval and scrutiny of the development contracts. This point is related to the discussion about the autonomy of universities and the trust-relationship between state/society and universities, raised especially by Vestager during the parliamentary debates. It also reflected in detail how the ministry officials imagined the life of the text they had been drafting. The specification of the minister's power continued in questions 10 and 37, where he described his obligation to ensure that members of the governing boards did not represent or promote interests other than those of the universities (ibid.: 31 and 33).⁹

The second draft of the memorandum of considerations also included proposals for amendments given by the Danish People's Party (Dansk Folkeparti) as well as minority statements from both this party and the Danish Social-Liberals (Radikale Venstre) (Udvalget for Videnskab og Teknologi 2003b). In their minority statement the Danish People's Party, not surprisingly, described the draft law as irreversibly breaking with the Danish tradition of scientific freedom (although it is not clear which tradition they were appealing to), and as introducing a combination of ideological and business control over research and teaching, which threatened academic originality and standards (ibid.: 7-8). Further, the party described the proposed self-ownership (as they write: without universities' owning anything) as placing an exorbitant amount of detailed power over the universities in the hands of the minister and his civil servants, and at the same time reducing the employees' influence to a minimum.

⁹ Another interesting feature of the lawmaking process, which was expressed in the memorandum, is the international inspiration of the law. In his answer to question 34, about international experiences with setting up governing boards, the minister pointed to Swedish experiences and Burton Clark's (1998) *Creating Entrepreneurial Universities* (ibid.: 32-33).

Against this background, the Danish People's Party suggested a number of amendments, none of which were supported by more than a minority (ibid.: 9-12). The Danish Social-Liberals also pointed to what they perceived as an attack on university independence in their minority remark on the proposal (ibid.: 8). The party suggested the law was a part of an increase in state control ("*statsliggørelse*") over areas central to society, whereas they would prefer to place increased freedom and responsibilities with the people actually doing the work in these central areas ("*de mennesker, der har det daglige arbejde*").

As in the first draft, it is interesting to read the answers from the minister printed on request of the different parties. An example is question 13, where the minister stated that the head of department's power to approve externally financed research was a natural effect of a leader-subordinate relationship (over-underordningsforhold) (ibid.: 45). In the questions and answers included in the second draft of the memorandum of considerations, the explanation of the minister's powers, begun in the first draft, continued. The minister saw the detailed description of his power as a necessary effect of the universities' change into self-owning institutions, and described them as very thoroughly thought-through (ibid.: 46). In his answer to question 28 about the development contracts, the minister described how he expected quantitative and qualitative indicators for defining the aims of the universities to be developed in a dialogue between the ministry and the universities (ibid.: 53). He also stated that he saw it as a ministry obligation to secure comparability between the development contracts of the different universities. In contrast, in question 57 (ibid.: 56-57), the development contract was discussed in relation to freedom of research. Here it was left open for the universities to define this relationship. Later, in answering question 88, the minister decided that research done outside the framework of the research strategy should not be published in the name of the researcher's university unless the head of department allows it (ibid.: 58-59).

Second and third parliamentary debates

Back in parliament for the second round of debates over the law, Severinsen presented the few amendments to, and clarifications of, the law that resulted from the committee process (Folketinget 2003a: 2). One of these issues was freedom of research, which Severinsen pointed out was now clarified more thoroughly in the memorandum of considerations, where it was stated that no one outside the universities, the minister included, could order the universities to begin or end specific research. She even cited the often critical union journal *ForskerForum*, which said that the issue of freedom of research formally was in order (ibid.: 3). The remarks on her speech as spokesperson, however, raised the question of freedom of research yet again (ibid.: 2-5). This time the focus was on whether the genius researcher was more likely to thrive under a governing board, or under what Severinsen called "the inertia of collegial rule" (*inertien i... det kollegiale styre*, ibid.: 4). Homan suggested that the new law made it

necessary to break the law to have a brilliant (or genius) idea (ibid.).¹⁰ In many ways the second debate was a clone of the first, but the focus did seem to have changed a bit from freedom of research to university independence from the ministry. In her speech as a spokesperson, Marianne Jelved announced that the Danish Social-Liberals would be keeping a sharp eye on the ministry to ensure that it lived up to its promises of securing freedom of research (ibid.: 10). She also stated that her party would be very attentive to the concrete use of the many new powers of the ministry. The main motivation for the Danish Social-Liberals to vote against the proposal, she stated, was the majority parties' lack of trust in the universities' ability to decide their own management structure. The third parliamentary debate (Folketinget 2003d) did not bring any new discussions forward (though Christmas Møller of the Conservative People's Party (Det Konservative Folkeparti) did respond strongly to an alleged reference to her as 'a goose'). Langballe had to admit that the race was lost ("*løbet er kørt*") (ibid.: 1)), and Severinsen could, in her speech, look forward to the work of appointing governing boards and drafting statutes ("*vedtægter*"), the work of making the high number of 12 universities focus their strengths better, and of proving wrong those she called the professional pessimists ("*professionelle sortseere*") (ibid.: 1).

Conclusion:

The relationship of trust between the universities and their surroundings was, as we have seen, an organising theme during the debates in parliament over the 2003 university law. The majority behind the law argued that it was aiming at reinstating the universities' trustworthiness. Contrary to this, the minority parties argued that the law appeared to be motivated by an unfounded lack of trust in the universities, and that it posed a serious threat to the existing relationship of trust between state and universities. The opposition argument, as it was put forward by the Danish Social-Liberals, was that the government's lack of trust in the universities was likely to result in tight government control and undue interference in university affairs. For the majority, 'trust' presupposed a change towards accountability and transparency on the university's side. In contrast, the minority said that a basic sign of government's trust in universities was that they should be relatively free of such demands to demonstrate their trustworthiness. Severinsen and Homann's discussion about research freedom is a good example of a clear formulation of this distinction: where Homann saw the government's trust in the universities and the freedom and financial support springing from this trust as a precondition for good research, Severinsen saw successful research as a precondition for independence and financial support. Only researchers who have already demonstrated their accountability and value, should thus in her eyes be granted considerable funding and freedom to make their own priorities.

¹⁰ Questions about international references for the law such as the Bologna process were discussed a little in this second debate.

The law making process is interesting as a source of knowledge about the motivation behind the university law. It gives great insight into the politician's aspirations for the future of the universities, as they each attempt to make their own interpretation of what the law is about. That the issue of trust was central to this process suggests that the university law instigated a new understanding of trust as a foundation for the relationship between state and universities. As pointed out above, the university law was to establish a closer relationship between the performance and accountability of the universities, and the trust "awarded" to the universities by state and society. This motivation for the law is parallel to the general aim of the ongoing project of modernising the public sector, which is closely to align the performance of service providers in the public sector and other institutions and agencies with government policy (Ørberg 2006). Perhaps the debate over the university law, apart from highlighting a shift in the quality of the relationship between the state and one of its core institutions, can point to further developments in the way the public sector is organised. If trust is more and more bound up with the establishment of accountability, what does that mean for the agency of institutions within the public sector, for the way their actions are evaluated, and, perhaps more interestingly, the way their activities are planned and developed?

Our research project is attempting to understand the transformation of the role that universities play in Danish society, together with the internal changes in the now self-owning institutions and how these affect both managers, scientific personnel, and students. An interesting question to ask on the basis of this reading of the parliamentary process leading to the 2003 reform, could be whether the shift in the implications of trust debated in parliament are also present in the daily life of these groups of people. If so, then what consequences does it have, when the trust between persons in the work space of universities are tied to the issue of accountability, or when the trust between teacher and student are connected to a constant assessment of the quality of performance? Maybe "trust" is about to mean something completely different from "the spontaneously manifest condition for social life", which was how trust was imagined by the Danish philosopher K.E. Løgstrup (1905-1981).

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