Making Precarity Orderly

Germany's Fixed-Term Reform and the Material Conditions of Academic Freedom

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On 12 November 2026, the Bundestag adopted a reform of the *Wissenschaftszeitvertragsgesetz*, the statute that governs fixed-term employment in German academia. The Bundesrat will consider it on 18 December (BMFTR). The reform brings real improvements. But it rests on an assumption it never examines: that precarity is a problem of contract design, to be fixed with minimum durations and clearer rules. It is not. Precarity is above all a problem of dependence, and dependence is an academic freedom problem. The reform makes precarity more orderly. It does not make researchers less dependent.

This post argues that academic freedom, understood as an individual right, has material preconditions, and that reforms which regulate precarity without reducing dependence fail to secure them. Germany shows how constitutional doctrine can drift towards the institution's freedom at the expense of the researcher's. France shows the extreme case: teaching staff paid by the hour, re-engaged year after year, whom the constitutional protection of academic independence barely reaches. In both systems, the courts are unlikely to close the gap. The task falls to legislatures.

What the Reform Does, and What it Leaves Untouched

The reform introduces minimum terms of three years for first contracts before the doctorate and two years after it, qualification goals written into contracts, and extensions for caring responsibilities. These are not trivial gains. But the architecture remains intact: fixed-term employment remains the norm until a professorship, and no right to a permanent prospect is introduced. Around 90% of non-professorial academic staff in Germany are on fixed terms; Justus Henke and Peer Pasternack call them "the most vulnerable link", since a hiring freeze could hollow out the system without any protection against dismissal coming into play (HoF Policy Paper, 2025, my translation).

Even the German Association of University Professors and Lecturers (DHV) has said the reform is not a major step forward (Forschung & Lehre). At the Bundestag hearing of 4 November 2026, Amrei Bahr, one of the initiators of #IchBinHanna, warned that chains of fixed-term contracts put "science itself in chains" and called for postdocs to be removed from the law altogether (Bundestag, my translation). Kristin Eichhorn adds that, through its coupling with the general Part-Time and Fixed-Term Employment Act, the reform may in practice even widen the options for fixed-term employment (almameta, November 2026).

A longer first contract postpones the question of the next one; it does not change who answers it. As long as a researcher's next year depends on the goodwill of a supervisor, a department or a funder, the reform orders precarity without touching its core.

Dependence is an Academic Freedom Problem

Why should a labour-law reform concern constitutional lawyers? Because the freedom at stake is not only the institution's. Since the Federal Constitutional Court's 1973 university judgment (BVerfGE 35, 79), German doctrine has recognised academic freedom as both an individual right and an objective guarantee shaping how universities are organised. A recent decision shows what happens when the institutional side eclipses the individual one. In June 2025, the Court struck down a Berlin provision requiring universities to offer postdoctoral researchers a permanent position (1 BvR 368/22). The decisive ground was federal competence. But the Court also held that the obligation restricted universities' freedom to select their

academic staff, and that fixed-term contracts serve the training of early-career researchers.

Nikolas Eisentraut has noted that the Court thereby went beyond its own 1996 precedent, which had found fixed-term employment justified, not necessary (JuWissBlog, 11 July 2025). Christoph Möllers, Max Lenz and Nils Weinberg add that this flexibility comes at the expense of staff's political and legal capacity to defend themselves, and thus of academic freedom itself; they describe tenure as "one of the most important factual conditions of academic freedom, because it makes risk-free enforcement of rights possible" (*Autoritäre Bedrohungen der Wissenschaftsfreiheit*, Wallstein, 2026, pp. 77 and 186, my translation). In this reasoning, *Wissenschaftsfreiheit* appears as the institution's freedom to keep its staff on fixed terms, while the individual researcher, whose freedom the institution exists to serve, recedes from view.

The individual dimension rests on a functional reading: academic freedom protects those who teach and research, because of what they do, not because of the title they hold. As Éric Fassin puts it, "the right derives from the function, not from the title" (*De la liberté académique*, Tracts Gallimard, 2026, p. 24, my translation). Not everyone accepts this reading. Olivier Beaud ties academic freedom more closely to the university profession and to the status that protects it (*Le Savoir en danger*, PUF, 2021). But the disagreement is narrower than it seems. If academic freedom presupposes a status, then the lack of status of those who perform academic functions is not a weakness of the argument but its core: the status is missing precisely for those who do the work.

Dependence matters because non-renewal is the most discreet form of the power to dismiss. It does not need to be decided; it only needs not to be prevented. Those who depend on the next contract know this. The American Association of University Professors has long warned that "the very specter of contingency itself chills the academic freedom of all" (*Contingent Appointments and the Academic Profession*, 2003, rev. 2023). The effect is visible in small signs. When a French op-ed on academic precarity appeared in *Libération* in October 2026, 99 of its 217 precarious signatories chose to sign anonymously, for fear for their jobs (*Libération*, 22 October 2026). The chilling effect also shapes what gets researched: early-career scholars report being advised, even by sympathetic senior colleagues, to postpone research on gender or feminism until they are secure. When such advice is kindly meant, academic freedom has already become conditional on status.

Precarity as a Social Filter

Fear does not only silence; it also sorts. And the sorting is social. Where caution becomes the condition of a career, those who master the institution's largely bourgeois codes, and are willing to make no waves, fare better. Those who lack these codes, or refuse to conform, tend to be pushed to the margins. Yet nonconformist scholars are often among those who take intellectual risks and produce the work that unsettles their disciplines.

Pierre Bourdieu's *Homo academicus* (1984) offers a direct account of the social mechanisms at work here: academic recruitment and advancement depend not only on intellectual achievement, but also on socially acquired dispositions, relations of patronage and familiarity with the institution's implicit expectations. These mechanisms help explain how academic institutions reproduce their own social composition. Standpoint theorists such as Sandra Harding and Donna Haraway have, in turn, shown what knowledge loses when marginal perspectives are excluded. My suggestion is that fear and precarity reinforce this reproductive logic, making conformity a condition of survival and raising the cost of failing, or refusing, to fit in. What remains to be established is the specific role of precarity in intensifying this sorting. It is a question I am currently exploring with a sociologist colleague.

If this holds, precarity does not merely chill speech. It narrows who gets to do science at all. An academic freedom that only protects the conformist misses precisely what it exists to protect.

France: The Extreme Case

In France, the problem appears in its starkest form. Alongside doctoral researchers, temporary teaching

assistants and fixed-term staff, universities rely heavily on *vacataires*: teachers engaged by the hour, often for years, to cover permanent teaching needs. According to the Inspectorate-General, they deliver around a fifth of all teaching hours, and far more in some institutions. A tutorial hour is paid €43.50 gross, only for time spent in front of students; preparation and marking are unpaid. Since September 2022, the law has required monthly payment (Article L. 952-1 of the Education Code). In practice, payment often arrives months late.

French constitutional law protects academic independence more strongly than many systems. Since 1984, the Conseil constitutionnel has treated the independence of university professors as a fundamental principle recognised by the laws of the Republic (decision 83-165 DC), and it later extended this principle to all *enseignants-chercheurs* (decision 2010-20/21 QPC). The 1984 decision itself held that teaching and research functions, "by their very nature", require that the free expression and independence of "personnel" be guaranteed. Article L. 952-2 of the Education Code guarantees "full independence and complete freedom of expression" to "teachers and researchers" in general.

Yet this protection has been built around status. It shields tenured academics from interference in appointments, promotions and discipline. It says little about those who never enter that status, and whose independence is threatened not by a decision but by the absence of one. In its decision on the 2020 research programming law, the Conseil constitutionnel held that independence prevents a university president from refusing tenure to a junior professor on grounds unrelated to the university's administration, but that hiring research staff for the duration of a project does not, as such, call independence into question (decision 2020-810 DC, §§ 11 and 29). The situation of *vacataires*, re-engaged year after year with no legislative safeguard framing their renewal, has never been put to it.

The German lesson applies directly. Since the 2007 university autonomy law, French universities have gained broad powers to recruit contract staff, and they recruit their *vacataires* themselves. Reading academic freedom as the freedom of institutions to manage their staff would turn it against those it should protect. Nothing in French constitutional law supports that reading: in 1984, the Conseil tied academic independence to the nature of teaching and research functions, not to a power of institutions over their staff.

Why the Courts Will Not Close the Gap

It is tempting to look to constitutional courts for a remedy. But the obstacles are structural. As Möllers, Lenz and Weinberg observe, those who depend on their institution's goodwill are less likely to go to court, and where such litigants are missing, "case law falls silent too" (2026, p. 76, my translation). Self-censorship leaves no trace in the case law. And even when a case is brought, doctrine built around status and institutional autonomy offers precarious staff little purchase: the link between dependence and academic freedom remains too indirect to ground an individual claim with confidence.

That is not a reason to abandon the argument, but to direct it to where it belongs. International standards already point the way. The UN Special Rapporteur on the right to education has stated that "academic freedom can be curtailed by the working conditions of teachers and researchers", pointing to staff on fixed-term contracts "whose fear of job loss restrains their academic freedom" (A/HRC/56/58, 2024, § 75). The 1997 UNESCO Recommendation describes tenure or its functional equivalent as "one of the major procedural safeguards of academic freedom" (§ 45). Article 13 of the EU Charter of Fundamental Rights provides that "academic freedom shall be respected", and the Court of Justice has already found a Member State in breach of it (*Commission v Hungary*, C-66/18). In Quebec, a committee of the FQPPU concluded that precarity is "a structural obstacle or limit" to academic freedom, which must be "justified by a demonstrable, serious and legitimate imperative" (Avis no 7, 2025, pp. 4 and 13, my translation).

Taken seriously, these standards give legislatures a test that goes beyond contract duration. A reform

protects academic freedom only if it reduces dependence: by limiting structural reliance on fixed-term and hourly staff for permanent needs, by offering multi-year engagements and a credible prospect of stability, by requiring reasons and a hearing before non-renewal, and by paying for the work actually done, on time. Measured against that test, the German reform falls short, and French law has barely begun.

Conclusion

When the Bundesrat considers the reform on 18 December, the question should not be whether contracts are longer and rules clearer, but whether those who teach and research are any less dependent on the goodwill of others for their next year. On that test, the reform fails.

What it preserves is not merely insecurity. A career in which only those who can afford to wait, and who know how to fit in, last long enough to reach a permanent post is social reproduction by design. And this filter does not select at random: it selects against precisely those who question established paradigms. The scholars whose work is most disruptive are the first to be shown the door, not because their work is weaker, but because they cannot afford, or refuse, to make no waves.

An academic freedom that survives only among the secure and the conformist has not merely been weakened. It has stopped doing its job: protecting those who challenge what their discipline takes for granted.

Disclosure: the author is the president of #JeSuisLéa, a collective of precarious academic staff in France, which published the Libération *op-ed mentioned above and is considering legal action concerning the remuneration of hourly-paid teachers. This post does not address any such proceedings.*

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